DOCUMENT RESUME

ED 394 883 SO 026 220

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|---|---|
| AUTHOR | Kaohi, Sharon; And Others |
| TITLE | Justice for All: Resources for Peace and Law-Related Education. |
| INSTITUTION | Hawaii State Dept. of Education, Honolulu. Office of Instructional Services. |
| PUB DATE | Apr 94 |
| NOTE | 120p. |
| AVAILABLE FROM | Office of Instructional Services, Hawaii State Dept. Of Education, 189 Lunalilo Home Road, Honolulu, HI 96825. |
| PUB TYPE | Guides - Classroom Use - Teaching Guides (For Teacher) (052) |
| EDRS PRICE | MF01/PC05 Plus Postage. |
| DESCRIPTORS | Citizen Participation; Citizenship; *Citizenship Education; Civil Law; Community Involvement; *Conflict Resolution; Cooperative Learning; Criminal Law; Elementary Secondary Education; *Law Related Education; Learning Activities; *Peace; *Problem Solving; Public Affairs Education; Role Playing; Social Studies; Teaching Methods; Thinking Skills; Violence |
| IDENTIFIERS | *Hawaii |

ABSTRACT

This publication is intended to serve as a resource for K-12 social studies teachers charged with the major responsibility of making peace and law-relaed concepts meaningful to students. The purpose of this resource book is to empower teachers and students in Hawaii with the concepts of peace and law. It seeks to foster dialogue between and among teachers and students that promotes respect, tolerance, and an understanding of the need for global peace. Pertinent information about Hawaii's judicial history, the civil and criminal trial process, and the court system is included in the resource book. It also contains sample learning opportunities that focus on peace and law-related concepts. The resource book intends to enhance students' critical and creative thinking, and communication skills, as well as conflict management and resolution skills. These skills are essential for maintaining successful relationships in the home, school, workplace, and community at large. (LH)

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# Justice for All

## Resources for Peace and Law-Related Education

Office of Instructional Services/General Education Branch • Department of Education State of Hawaii
RS 94-5507 • April 1994

# FOREWORD

This publication is intended to serve as a resource for K-12 social studies teachers charged with the major responsibility of making peace and law-related concepts meaningful to students. Peace and law-related education seeks to engage students' critical and creative thinking toward a just and peaceful world.

Peace and law-related education empowers youth to become effective, responsible citizens by promoting personal and civic responsibility and community participation. It has the power to transform communities by providing opportunities for students to learn the skills of communication and conflict resolution and strengthen their commitment to democratic values and processes.

Pertinent information about Hawaii's judicial history, the civil and criminal trial process, and the court system is included in this resource book, as well as sample learning opportunities that focus on peace and law-related concepts.

Implementation will be guided and assisted by educational specialists from the Office of Instructional Services and the district offices.

Herman M. Aizawa, Ph.D.
Superintendent

# ACKNOWLEDGEMENTS

This Peace and Law-Related Education Resource Book was prepared under the direction of Sharon Kaohi, Educational Specialist for Social Studies, Office of Instructional Services, Hawaii State Department of Education. She was assisted by Jane Kinoshita and Mary Anne Soboleski, Resource Teachers for Social Studies.

We would like to thank the following people for their assistance in the completion of this resource book. Their contributions, insights, and support were invaluable.

**Essay Writers**

Judge Leslie A. Hayashi
Judge Ronald T.Y. Moon
Michael Broderick
Chris Erbes
Judge Linda K.C. Luke
Kawika Liu

**Consultants and Contributers**

Tuti Mary Baker
Sue Ann Chun
Don Isbell
Julie Kaohi Matsumoto
Nova Jean McKenzie
Jack Spock
Mieko Watari
Carol Yoshinaga

Thank you also to Lani Ma'a Lapilio and Marsha Kitagawa for their contributions on the Hawaii Judiciary.

And special thanks to the students whose drawings, excerpts, and quotations appear throughout this resource book.

# INTRODUCTION

This resource book was written as a supplement to *Meeting the Challenge: A Framework for Social Studies Restructuring*, while also supporting the *Essential Content* Document.

Peace and law-related education is concerned with the preservation of our planet and our society. It involves interaction on all levels of relationships, from interpersonal to international, toward a common goal of creating a just and peaceful world. If we want to live in a peaceful, just, and humane society, then we must begin with ourselves.

The purpose of this resource book is to empower teachers and students with the concepts of peace and law and to foster dialogue between and among teachers and students which promotes respect, tolerance, and an understanding of the need for global peace.

We believe it is our responsibility as educators and parents to teach/learn the peacemaking skills and our system of law needed to live in harmony on this planet.

Communication, conflict management and resolution skills, and dispositions are essential for maintaining successful relationships in the home, school, workplace, and community at large. When people lack the skills, dispositions, and understandings to manage conflict, the conflict often manifests itself in behaviors that result in damaged relationships or violence.

Are we condemned to accept this state of violence as inevitable? Or can schools play a critical role in preventing/reducing violence and promoting peace and harmony?

The American Psychological Association Commission

on Violence and Youth, in its report released in 1993, acknowledged "that the problem of violence involving youth is staggering, and while there are complex social, physical, and other considerations that must be addressed in a comprehensive response to the problem, there is evidence that we can intervene effectively in the lives of young people to reduce and prevent their involvement in violence." In this same report, it was recommended that schools play a critical part in any comprehensive intervention to reduce youth violence. Among other considerations, the report called for *inclusion of school based curricula and teaching strategies to help build youth's resistance to violence as perpetrators and victims.*

We can prevent violence and promote peace by teaching our students the skills of conflict resolution, by improving communication skills, by practicing responsibility, tolerance, and negotiation and mediation strategies, and by engaging in group problem solving.

We invite you to browse through this resource book and interact with the ideas, thoughts, and learning opportunities in ways that are relevant and appropriate for you and your students.

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# ESSAYS

Dynamic forces of change—technological, economic, environmental, and demographic—are impacting state judiciaries in the United States. These forces have made it desirable and possible to incorporate alternative dispute resolution techniques and other changes into the formal judicial system.

To address these and other issues of law in our society, we invited community members to respond to some questions. These were the questions and responses.

Judge Leslie A. Hayashi: Choices and Consequences: What are the benefits of law-related education?

Judge Ronald T.Y. Moon: What should be the role of the Judiciary in an increasingly diverse democratic society?

Michael Broderick and Chris Erbes: Is there a place for alternative dispute resolution in our Judicial System?

Judge K.C. Linda Luke: What additional actions are being considered to stem juvenile delinquency?

Kawika Liu: He mau kanawai hou mai ka wa kahiko mai: new laws from ancient times.

You and your students are invited to read these essays and discuss your own responses to these questions.

*Peace rules the day, where reason rules the mind.*

*William Collins—Eclogue II*

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## Choices & Consequences

by Judge Leslie A. Hayashi

*address delivered at Law-Related Conference on October 21, 1993*

Imagine...

You are a juror. From the witnesses testifying you hear this story:

A 16-year-old high school student by the name of Danielle Haia is going with a young man. His name is Famous Kamakani and he is 20 years old.

One day as he sits beneath her window he overhears Danielle on the telephone. He suspects that she is "fooling around."

He gets angry. He yells to her to come out of her house. But Danielle doesn't want to. Instead she packs up some of his belongings and puts them outside the front door.

Mr. Kamakani calls out to her again asking her to come out. This time he wants other things back—the necklace and the earrings that he gave her for her birthday. Danielle complies.

Now, Mr. Kamakani is not employed and he has no home that he can call his own except the Haia's. And now he's not wanted there either.

Hurting and angry, Mr. Kamakani waits for Danielle to walk to school the morning of June 1, 1992. Before 8:00 a.m. she leaves her house. She is wearing a fanny pack and carrying her school books.

When she is a few blocks from her home, Mr. Kamakani stops her. He accuses her of being unfaithful. Danielle simply says she wants to go to school.

Mr. Kamakani grabs Danielle's fanny pack, takes out a $20 bill and puts it in his right pants pocket. Danielle tries to grab her money back. Mr. Kamakani grabs her right hand and bites it. Danielle lets go.

Mr. Kamakani is subsequently arrested for the offense of Robbery in the Second Degree. Now this charge is a class B felony, punishable by a fine up to $25,000, ten years in prison or both.

You have heard the evidence. What would your verdict be?

As you might have imagined, this is a true story. The jury found Mr. Kamakani guilty of Robbery in the Second Degree.

Moreover, at the time of the sentencing, Mr. Kamakani had previously committed a crime and thus was subject to repeat offender senten-

cing, meaning that I, as the judge, must order him to serve a minimum of three years and four months unless there is some justification to deviate from that requirement.

When I spoke with the jury members after their verdict, I was met with 12 very upset taxpayers. Jurors are not told what the maximum penalties are until after their verdicts have been received. In their opinion, they felt that was a relatively minor offense —$ 20 and a bite on the hand.

Then they asked a question which really should be posed to you: how could this case have been prevented?

My answer is the reason why I am here today. Mr. Kamakani, as we all do, needed to learn how to deal with his feelings and how to resolve his conflicts. He needed to make choices based on knowing the consequences. And he needed to learn that both at home and in school. He needed law-related education.

What do I mean by law-related education? To answer that question, I have to briefly explain its evolution as I see it. Law-related education began as a simple program with a simple message which really paralleled the main message of our society at that time. Obey your parents, obey your teachers, and obey the law. For students, law-related education programs usually meant a field trip to the courthouse or inviting a lawyer or judge to speak to the class. It was a positive way for judges and lawyers to engage in community relations.

But society changed and so did law-related education. Questions were asked about the importance of obeying parents, teachers, and the law. The answers weren't satisfactory and neither were the law-related education programs.

So began another phase of law-related education — the information explosion. Now a meeting with a judge or a lawyer for just a day wasn't enough. Instead, textbooks, materials, and complete year-long curriculums were developed, such as the Street Law program. Lawyers and law students taught throughout the year. Mock trial programs which lasted many months were introduced.

And what of our society today? It's the age of interaction and hyperaction. Students aren't passive anymore. They are passive-aggressive. Students have attention deficit learning syndromes. They don't want to read books — they'd rather be watching

videos or television. Studies also tell us that the students are experimenting with alcohol and drugs at an earlier and earlier age. They are impatient — they want quick results — they seem to give up on themselves easily. And they hurt others without showing much remorse.

And what about today's law-related education programs? They, too, have become interactive. The ABA is designing an interactive software module entitled "You Be the Judge." This program is designed to foster an understanding of the trial process while promoting basic skill development in reading, writing, and comprehension. The Hawaii State Bar Association's Standing Committee on law-related education has just completed six videos entitled *Final Verdict* in which the viewer hears the testimony as would a juror and renders the verdict. These cases address such issues as driving under the influence, sexual harassment, murder, domestic violence, automobile accidents, and a probate/family dispute.

There are schools on the mainland called magnet schools. One school has chosen law-related education as its theme. Every single class in that school learns about the law in some way. Even students attending shorthand classes learn legal terms and courtroom procedures.

In Alaska there is another type of interactive program: The Anchorage Youth Court. The student violators are represented by their peers and they are judged by their peers. In essence it is a student run system of justice. They are adjudicating such cases as truancy, theft, property damage, and assaults. And as you might as well imagine, the students are stricter than the adults when it comes to sanctions.

In short, then, law-related education has evolved from public relations to public information and finally to public participation. It is no longer sufficient to just provide information about one's rights or the structure of our courts. Instead law-related education is now a curriculum geared toward helping students understand right from wrong and encouraging them to recognize consequences and to make the right choices. And successful law-related education programs rely on community partnerships.

That is not to say that law-related education must be a fancy stand alone curriculum. Instead it would be better if law-related education is integrated with your existing classes using community resources. Our lives are full of opportuni-

ties to discuss law-related matters. Here are a few examples: A recent study discussed the large numbers of incidents of sexual harassment in our schools. How do the students feel about it? Do they feel that it is acceptable? Will they feel the same way when they enter into the work force?

And I guarantee you discussion on same sex marriages will also be lively. How do students view the importance of relationships? What does it mean to have a privacy interest? Are females more accepting of a same sex relationship than males?

And how do students want to resolve their conflicts? Do they want to go in front of their peers? How can they learn mediation skills?

And what if Mr. Kamakani had been taught those mediation skills?

There may well have been a different ending to his story.

What if Mr. Kamakani had been able to say to Danielle: "I'm hurting inside. I'm afraid of being alone. I want to stay with you." Or what if he had enough self esteem to say, "Danielle, I'm very sad that our relationship is over." and to walk away.

One less crime. A world of healthy and peaceful adults.

You, as teachers and partners, hold that promise.

Imagine that.....

*Judge Leslie A. Hayashi graduated from Leilehua High School, Stanford University and the Georgetown University Law Center. She is a District Court Judge of the First Circuit Court, appointed in November, 1990. She is the Chair of the Hawaii State Bar Assoication Standing Committee on Law-Related Education. She is the editor of* <u>*Our Rights, Our Lives: A Guide to Women's Legal Rights in Hawaii, (First and Second Edition)*</u>

# The Role of the Judiciary in a Diverse Democratic Society

by Chief Justice
Ronald T.Y. Moon

The primary role of the Judiciary is to interpret the law and apply it to specific disputes. The Hawaii Judiciary is composed of trial and appellate courts and the administrative agencies that support them. Hawaii's Judiciary is also home to an alternative dispute resolution program that encourages parties involved in a dispute to settle claims without litigation; or, if litigation has been commenced, to resolve their disputes promptly, thereby minimizing cost and expenses. The Hawaii court system is a unified system administered by the Chief Justice of the Supreme Court of Hawaii and is operated through funds provided by the state legislature.

The Judiciary provides (1) a neutral forum for the peaceful resolution of disputes, (2) orderly court processes for the analysis and consideration of disputes, and (3) final decisions that resolve those disputes.

All people in our diverse society must have access to the courts. Access is not limited to any group, nor can one group be favored over another. Neutrality requires that judges and court personnel treat all participants in the justice system fairly, without regard to race, ethnicity, sex, religion, age, disability, sexual orientation, or economic status. However, in many instances, only the comparatively wealthy can now afford to litigate a case of any complexity in the courts. People who are most disadvantaged and least empowered simply do not have the means to access the very things that might, in some circumstances, turn their situations around or at least improve them. Access to justice, however, does not always mean having recourse to an attorney, to the judicial process, or to individual representation. It may, under certain circumstances, mean having mediators, arbitrators, ombudsmen, lay advocates, counselors, paralegals, administrative tribunals, or other types of forums available for the resolution of problems or disputes. Thus, the role of the Judiciary includes ensuring that lawyers and judges are available to the disadvantaged or poor when they really need them.

All Hawaii state judges promise to support the Constitution of the United States and the Constitution of the State of Hawaii. The Constitution of the State of Hawaii is founded, in part, upon "an understanding and compassionate heart toward all the peoples of the earth."[1] In our diverse society that understanding

must not change.

The Judiciary provides orderly court processes to resolve disputes. Unlike the political branches of the government, the court becomes involved in disputes only when it is invited to do so by at least one party to the dispute. In most instances, courts cannot intervene and investigate a dispute or problem without invitation. However, once the matter is brought to the courts, prescribed court procedures ensure the orderly resolution of the dispute.

Also, unlike the political branches of the government, court decisions are not directly based upon the will of the majority. Court decisions must be based upon the merits of the claims presented to the courts. The majority's will and the characteristics of the parties cannot be the basis upon which the courts render its final decision. Moreover, a court cannot base its judgments on a person's economic status, race, ethnic background, religion, sex, age, disability, sexual orientation, or politics. The courts must decide whether a claim has merit under the law and whether such claim has been proven by the evidence presented. The nature of the decision-making task, however, means that when the court's final decision is rendered, such decision will ultimately favor one party over another.

The courts have a responsibility and obligation to ensure that every person or entity involved in a dispute has the opportunity to make claims or charges, to respond to the charges and claims brought by others, to present evidence, and to challenge the evidence presented by others. These court processes, however, cannot be so cumbersome that individuals are dissuaded from requesting the assistance of the courts, but at the same time, the processes cannot be so lax that courts are used as tools or mechanisms to harass others.

The law applied by Hawaii's courts is composed of the federal and state constitutions, state statutes, and common law. Constitutions define governmental powers and duties and generally limit the government's authority by protecting rights held by the people. Statutes are laws written by the legislature, which generally reflect the popular will. Common law is law based upon ancient custom and usage and has been developed by court decisions. Hawaii's common law is rooted in the common law of England, as that common law has evolved in the United States. Hawaii's common

law has also been influenced by the native Hawaiian and other cultures that inhabit these islands.

When the law discriminates on some impermissible basis, such as economic status, race, ethnic background, religion, sex, age, disability, sexual orientation, or politics, it is the duty of a court to say the law cannot be enforced.

In our diverse, democratic society, it is also the responsibility of the courts to say that certain ethnic practices cannot continue, especially when such practices violate the fundamental rights of other individuals. Our constitutions protect almost all beliefs and a wide range of behavior based upon those beliefs. When cultures clash, the courts attempt to fashion resolutions that take into account the state of the law, the needs of the parties, and the needs of society as a whole, particularly when society's needs are expressed in statutory law.

In recognition of our diverse society, the Hawaii Judiciary works with others to accommodate the needs of all people who appear before the courts or use court services. The Judiciary provides interpreters for non-English speaking peoples and has the technological capability to provide video transcription of testimony for hearing-impaired jurors. The Hawaii Judiciary also works with others to fashion alternative and less expensive means of resolving disputes while at the same time preserving the parties' right to trial. These alternative dispute resolution programs are an integral part of our justice system and serve as an invaluable tool which supplements the traditional judicial process.

[1] See, Preamble to the Constitution of the State of Hawaii, ¶3.

*Judge Ronald T.Y. Moon is Chief Justice of the Hawaii State Supreme Court.*

# ADR—Now and in the Future

by Michael F. Broderick and Chris Erbes

Courts have traditionally been the regulators of society. People often looked to the courts for the fair resolution of disputes. However, despite everyone's best efforts, the court process can be time consuming, costly, and not always personally satisfying. Alternative Dispute Resolution (ADR) is a term that refers to methods of resolving disputes other than traditional litigation. ADR can happen in the courts or outside the courts. ADR includes such things as mediation and arbitration. Mediation is a process whereby the disputants sit down with neutrals to discuss the dispute and possible ways it might be resolved. The parties in the dispute design their own resolution with the assistance of the mediators. In arbitration, an arbitrator or a panel of qualified arbitrators makes a decision based on the case presentations. As a general matter, mediation and arbitration are quicker and less expensive than traditional litigation.

The role of ADR in Hawaii's Judicial system is already quite extensive. The Center for Alternative Dispute Resolution (The Center) became a permanent office within the State Judiciary in 1989 after a four-year experimental program. The Center (1) mediates complex litigation and disputes that affect the public interest or that involve agencies of state and local government, (2) assists in the design and implementation of ADR programs, and (3) oversees a Purchase of Service contract with Mediation Centers of Hawaii which is the umbrella organization for the statewide community mediation centers.

The first part of the Center's mission, mediating existing disputes, refers both to cases that already are in court and also to public policy disputes in which a lawsuit has not yet been, and may never be, filed. In the latter instance, the Center often takes a preventative approach by getting involved in the dispute before it turns into a lawsuit.

As for court-based ADR programs, several mediation programs already exist in the courts. For example, in District Court on Oahu and the Island of Hawaii, Small Claims Court cases are referred to mediation before the judge hears the case. If the parties do not resolve their dispute in mediation, they can return to court. As another example, on Maui, Family Court has a mandatory custody screening procedure for all families filing for divorce in which custody is involved. Certain

ones of those custody disputes are then sent to mediation. Similar programs are being explored on other islands.

Family Courts on Oahu and the Island of Hawaii presently have programs which provide divorcing families with information on divorce, including the use of mediation in divorce and custody disputes. Oahu's Family Court also has the Juvenile Monetary Restitution Program which refers juveniles to mediation. In the mediation, the juvenile and the victim mediate the restitution. In addition, selected Chapter 587 (Child Protection) cases are sent to a Judicial Pretrial Assistant. The Judicial Pretrial Assistants are volunteer, trained mediators who attempt to settle the dispute. If they cannot settle, they may issue recommendations to the Judge. The State's Circuit Courts have a mandatory, non-binding arbitration program for any tort (mostly personal injury) lawsuit with a probable jury award of $150,000 or less.

All of the above court-related ADR programs and others, were developed in part to help make the judicial system more efficient, to save resources for both the Judiciary and the parties and to increase the parties' satisfaction with the dispute resolution process.

The Judiciary continues to look to the future and the expansion of ADR options. The "Multi-Door Courthouse" is one possibility for the future. When a dispute enters the judicial system it would be screened and sent to an appropriate "door." The "doors" would include ADR options as well as traditional litigation. In addition, traditional cultural venues such as Ho'oponopono might be offered. This type of system would offer more dispute resolution options to the public than currently exist.

Further, it is possible that ADR programs will be developed for specific case types. One example would be the use of ADR in criminal cases. In many parts of the country, courts use diversion programs in criminal cases. In those instances, mediation functions as a diversion technique and screens out of the criminal process offenders who ordinarily would be put through formal criminal proceedings. Diversion-type mediation usually involves an action short of formal arrest or prosecution and disposition of the case. As a diversion technique, mediation ranges from informal discretionary action to highly structured mechanisms.

In addition to the development of new ADR pro-

grams, statutory and rule changes may expand the use of ADR methods. Rule changes, such as requiring attorneys to notify their clients regarding ADR options, are just some of the options being considered.

Finally, as the traditional courthouse model changes, so will the functions of those who work within the courthouse. Judges already are, and will continue to incorporate mediation skills into their repertoire of judicial functions.

The move to develop, implement and expand the use of Alternative Dispute Resolution is more than ten years old. Throughout this movement, numerous evaluations and surveys have reported that users of ADR are generally more satisfied compared to users of traditional litigation. Because of this, and because ADR can often times be more cost effective to both disputants and governmental institutions, ADR will continue to be an integral part of the Hawaii State Judiciary. However, it is critical to remember that ADR is not the answer to the world's or to Hawaii's problems. It is a complement to, not a substitute for, the existing judicial system. Maintaining the proper perspective regarding ADR will, in the long run, produce the most satisfying results.

*Michael Broderick is the Director of the Center for Alternative Dispute Resolution.*

*Chris Erbes is a mediation specialist for Alternative For Dispute Resolution.*

# A Court for Families

by Judge Linda K. C. Luke

The fact that you were born, raised or schooled in Hawaii means that you are or were under the jurisdiction of the Hawaii Family Court at some time in your life.

Created in 1966, the Family Court permits family members access to their own court to resolve problems involving the family. At the heart of the Family Court is the philosophy that government has a responsibility to protect those who cannot protect themselves and to promote the welfare of the family unit and the community as a whole.

Hawaii is divided into four judicial circuits. They are the First Circuit (Oahu), the Second Circuit (Maui, Molokai, and Lanai), the Third Circuit (the Big Island), and the Fifth Circuit (Kauai and Niihau). There is a designated Family Court in each of these districts.

Each Family Court is assigned a complement of judges and staff that specialize in the area of family law. They are well trained professionals in the legal and social dynamics of family relationships.

The Family Court has been described as the "Emergency Room" of the Judiciary. In a society faced with the disintegration of the two-parent nuclear family, the Family Court is tasked with the responsibility and obligation to do the legal and social surgery required to repair the damage and to help restore children and families to some semblance of normalcy and social and emotional health in their every day lives.

Each Family Court has exclusive jurisdiction to hear cases involving the following:

Civil

- Adoption
- Child/Elder Abuse and Neglect
- Civil Commitment (Mentally Ill)
- Divorce (Annulment and Separation)
- Guardianship of Children and of Incapacitated Persons
- Juvenile Status Offenses (Beyond control, curfew, runaway and truancy offenses)
- Paternity
- Protective Orders

Criminal

- Adult Criminal (Felony and Misdemeanor criminal offenses against family members)
- Juvenile Law Violation (Felony and Misdemeanor criminal offenses)

Given this broad scope of jurisdiction, the Family Court is not unlike the school setting in many respects. Both institutions appear to be a mirror image of the wide range of social problems confronting

young people of today

Schools really serve as an early warning system to identify youngsters in crisis.

- The seemingly stubborn truant or runaway may in actuality be a seriously abused victim of family and societal neglect or indifference.

- The skyrocketing rate of teen pregnancy may in part reflect the misguided belief by the unloved teen in trouble that her sexual partner is an adequate surrogate for family love and support. Her continued drug use may spawn another helpless victim in the person of her "drug baby."

- The campus bully who is subject to numerous school suspensions may also be on the receiving end of hard core violence in the home setting. His or her thirst for violence may escalate if left unchecked.

- The chronic petty thief may be supporting an irrepressible drug or alcohol habit. He or she may also be a part of a family household that treats illegal drug use as a way of life. If left untreated, there really can be no hope for the future for this individual.

Eventually, each of these minors in need may find themselves before the Family Court. It is there that hard choices must be made by the youth in trouble. Either shape up and stay straight with the help of numerous professionals such as the juvenile probation officer, or face the prospect of being shipped out for "hard time" at the Hawaii Correctional Facility.

Family Court can be the court of "second chances" if the youth in crisis takes responsibility for his or her actions. If that youngster is willing and able to follow court-ordered probation, he or she is placed under the supervision of a court officer who monitors his or her adjustment in the home setting, in the school, and in the community. This usually entails regular and frequent home and school visits and interviews with the child on probation and his or her parents, teachers, and counselors.

Successful Family Court approaches for rehabilitating a minor who has broken the law may include court-ordered restitution and community service. These programs are designed to permit a youngster who has made a mistake to make amends to a specific victim or to the community at large by requiring the completion of certain vol-

unteer services.

In addition, the Family Court has relied upon community-based resources such as Adult Friends for Youth, Big Brothers or Big Sisters and the Boys Club to assign mentors to youngsters who are in dire need of an adult figure in their lives, be it a surrogate parent or older brother or sister. In families lacking the structure and stability of two parents, the availability of a friendly and reliable ear can make a difference to a troubled youth.

As the court system struggles to deal with ever increasing caseloads, it is soon realized that there are no easy solutions to the many problems plaguing our youngsters of today. However, since its inception, the Family Court in Hawaii has strived to achieve its mandate of rehabilitating troubled youth and reconciling them with their families. This continues to be the important task of a very special court created for children and their families. There can be no more important work for the "court of second chances" and, perhaps, "new beginnings."

*Judge Linda K.C. Luke has served as a District Family Judge since 1981. Prior to her judicial appointment, Judge Luke served as a law clerk to Chief Justice William S. Richardson, as a deputy attorney general, and as corporate counsel at Dillingham Corporation.*

*She currently serves on the Hawaii Supreme Court Committee on Gender and Other Fairness, the Committee on Judicial Performance, and a bar-bench committee on Court Interpreters. In addition, she is a member of the Board of Managers of her alma mater, Sacred Hearts Academy.*

# He mau kanawai hou mai ka wa kahiko mai: new laws from ancient times

by Kawika Liu

Before the coming of Captain Cook, the Hawaiian people practiced methods of dispute resolution that harmonized with their cosmology of interconnectedness with the universe. The foreigners who followed Cook, unable and unwilling to comprehend such a system, imposed[1] their Western legal system upon the Hawaiian people. Such a system has been a means of oppressing Hawaiians since 1820. The American missionaries who brought New England Christianity to Hawaii brought with them a cosmology founded in individualism, sin, private property, and other baggage of centuries of conquest and guilt. They expressed this cosmology in a jurisprudence of crime and ownership, and of the division of the world into owned spaces within a hierarchy that placed them, the Euro-American permanent tourists, on top. Since this time, the "law" has evolved and been shaped to legitimize the alienation of Hawaiians from themselves and their world. A new jurisprudence, coming from Hawaiian sources and shaped to fit into the present exigencies of modernity/post-modernity, is an integral part of restoring the *Kanaka Maoli* nation. This jurisprudence must be based on the rights of Hawaiians to self-determination within the system of their choosing. Most importantly, a new jurisprudence cannot be adopted or formulated in isolation, but is part of a unified effort to restore the Hawaiian nation, and so is connected with efforts to improve Hawaiian health, economic, social, and political status. A new jurisprudence is meaningless without the social, economic, and political elements with which it interacts.

A major cause of the lack of *pono* in the Hawaiian kingdom in 1893 was the limitations of Western jurisprudence in dealing with *Kanaka Maoli* cosmology. The Western discourse of law itself forms the limit for the expression of *Kanaka Maoli* self-determination and self-realization. Private property and political considerations construct the "reasonable" limitations on *aloha 'aina* and honoring the *'aumakua*, leaving little space for the ancestors who swim in the sea or sleep beneath the ground that has become a golf course. Preserving private property requires the compromising of Hawaiian culture and rights. Although State courts have recognized and protected Hawaiian rights in such cases as Kalipi v. Hawaiian Trust Co., Inc.,[2] Pele Defense Fund v. Paty,[3] and Public Access Shoreline Hawaii v. Hawaii County Planning Commission,[4] ultimately there is a limit,

which does not allow Hawaiians to stop development through the exercise of their rights:[5] if this limitation were not imposed, there would be nothing to prevent residents from going anywhere within the *ahupua'a* including fully developed property, to gather the enumerated items. In the context of our current culture, this result would so conflict with understandings of property, and potentially lead to such disruption that we could not consider it anything short of absurd...[6]

Together, however, these court cases do not secure the gathering and access rights of Hawaiians against development, but merely serve as implicit encouragements to the full development of all lands. A further reason for the construction of new jurisprudences is the lack of "remedies" within existing state, United States, and international law. The current international law provides no judicially enforceable remedy for the reduction of a people more than one million to less then 40,000 in a century.[7] There are no remedies for what David Malo lamented in the last century: "Perhaps they (the foreigners) foresaw the passing to them of the land under the constitution and its laws, and the benefits which the government and the chiefs would share with them, leaving the old natives of the land a slavish people whose voice was scarcely heard and whose petitioning was but a useless journey. The people who gather the *pulu* and clear the wild land, those who cut away the (staghorn) fern are not those who benefit by the richness of the soil. The native sharpens his digging stick, and then comes along a clever man who knows how to enrich the government and fill its coffers to overflowing. The paddler knows by their undulations the swelling wave and the surf wave and the mounting of the sea spray, but the shaping of the paddles requires expert skill with the axe edge in the hands of the *koaie*-wood paddle-makers on Pu'ukapele. The stranger has no more skill than with the axe than the worn-out hewers of Hawaii, but not ten Hawaiians combined have the skill and wit to equal that of the stranger in the legislature."[8]

Despite the difficulties of defining "tradition," certain basic elements of Hawaiian belief are clear. For one author,[9] these elements are *aloha aina*,[10] *aloha i Na Akua*[11] and *aloha kekahi i kekahi*.[12] For another, the hallmark of civilization (for Hawaiians) was, and still is, generosity; that is, the willingness to share one's *"waiwai..."*[13] The four central metaphors of traditional Hawaii were *malama 'aina*,[14] the *'aikapu*,[15] *ni'aupi'o* (mating),[16] and *'imihaku*[17]. The *'aina* is the elder sibling, along with *kalo*, of people, and it is the duty of younger siblings to take care of the elder. The *'aikapu* prevented women from "allowing their *mana* to defile the sacrifice to the male *Akua*" and from "devouring male sexual prowess."[18] *Ni'aupi'o* mating

reproduced the first mating of Papa and Wakea, the Earth Mother and Sky Father, and thus made the offspring an *Akua*.[19] Finally, *'imihaku* was to seek *mana* from Ku (violence) and Lono (sexual sources).[20]

Together, these tenets, and the *kapu* system formed a code of "laws" governing interpersonal relationships as well as those between gods and human beings.[21] The world was ordered into the *kapu*, or sacred, and the *noa*, or profane. A regard for the relationship of humans to the world would also be one of the central tenets of a new jurisprudence, particularly in evaluating actions and their effect on humans and the rest of the universe. Because the *ali'i* stood between the *Akua* and the *maka'ainana* in the role of trustee, and the richness of the land and the prosperity of the people measured the degree of success of this trusteeship,[22] this principle could also be used in a legal system as a fundamental maxim.

The implementation of a new jurisprudence could be through Hawaiian courts, using both formal Western forms as well as more traditional forms of dispute resolution. As in the Navajo nation, one system of courts could implement Hawaiian law and principles through a system of judges and juries, with written decisions, but preserving Hawaiian values as well as protocol, including the availability of the Hawaiian language. Such courts could be the forum for the resolution of disputes between Hawaiians and non-Hawaiians. A second system would be a more cultural setting, using forms such as *ho'oponopono* and other cultural means for resolving domestic problems, some business disputes, as well as minor crimes. This forum would primarily be for Hawaiians, although a new nation might make it available to non-Hawaiians.

Courts and other dispute resolutions could only work, however, within a larger framework. Land use regulations would then reflect *aloha 'aina* and valuing history and perpetuation over golf courses and desecration. The use of ocean resources could incorporate a modernization of the *ahupua'a*, where its boundaries would be extended to the limits of the 200 mile Exclusive Economic Zone, and where a new *kapu* system recognized that the ocean and its inhabitants need periods to rejuvenate themselves. Preventing substance abuse would be proactive, looking at restoring *pono* to individuals, families and communities through culture, education, jobs, and the

availability of *kupuna* and others to serve as guides. Reconstructing the nation goes far beyond changing the leadership to looking at the source. Hawaiians can look back over 2000 years to a civilization that traveled the Pacific and produced a population of over 1,000,000 before Cook, to the present to see the changes that Western laws have produced, and to the future, to the re-recognition of a sovereign Hawaiian nation. They can also look to the North American continent, to Native American courts, and to the Pacific, to the courts of island states, to see how other indigenous people are negotiating tradition and change. Finally, however, it is the Hawaiian people, exercising their inherent self-determination, that will decide how disputes are resolved in a sovereign Hawaiian nation.

*Kawika Liu is a third year law student at The Richardson School of Law, University of Hawaii.*

## Glossary[23]

**'aina**
land, but also a relationship. Handy and Handy define *'aina* as "that which feed," indicating the indispensable link between the homelands of the *Kanaka Maoli* and the *'aina*.

**'ainoa**
the eating together of men and women.

**ali'i**
chief.

**aloha**
love, compassion.

**'aumakua**
an ancestor that has become a family god. *'Aumakua* are the links of the present and future *'ohana* to the past, and enable humans to communicate with the spiritual world on a personal basis.[24] *Akua* can also be *'aumakua*, and *Pele* and others are *'aumakua* to certain *'ohana* and *Akua* to non-*kanaka Maoli*.[25] *'Aumakua* have many different *kinolau*, and protect and warn their *'ohana*.[26]

**ipu**
gourd.

**kahu**
guardian, or in modern times a Christian minister.

**kako'o**
support.

**kalai'aina**
divisions of, or to divide, an island. *Kalai 'aina*, in comparison, is translated as "politics" in the contemporary era, indicating the fundamental link between divisions and distribution of the land and power.

Notes

1 "Imposition" is: "an attempt to induce fundamental change... the application of norms that are external to society...(and) an absence of democratic consensus from that society." Okoth-Ogendo, The Imposition of Property Law in Kenya in The Imposition of Law (S. Burman and B. Harrell-Bonds, eds.,1979), quoted in Brian Z. Tamanaha, A Proposal for the Development of a System of Ingidenous Jurisprudence in the Federated States of Micronesia, 13 Hastings Int'l. and Comp. L. Rev. 71, 95 N. 130 (1989) (hereinafter "Tamanaha 1989").

2 *See infra*, sec.

3 66 Haw. 1, 8, 656 P.2d 745, 748 (1982).

4 73 Haw. 578, 837 P.2d 1247 (1992), *cert. denied*, *113* S. Ct. 1277 (1993).

5 1993 Haw. App. LEXIS 2, 17 (Jan. 28, 1993) (No. 15460).

6 However, the State of Hawaii Intermediate Court of Appeals recognized the fiduciary duties of state agencies to consider Native Hawaiian access and gathering rights in Public Access Shoreline Hawaii v. Hawaii County Planning Commission. The court again confirmed that such rights as may exist only exist on undeveloped lands until they are developed. 1993 Haw. App. LEXIS at 17.

7 *Id.* at 8-9, 656 P.2d at 747.

8 David Stannard indicates that the pre-invasion population of Ka Pae "Aina may have been as high as 800,000 or more. DAVID STANNARD, BEFORE THE HORROR; THE POPULATION OF HAWAII ON THE EVE OF CONTACT (1989).
The potential problems of bringing an action for genocidal acts of depopulation would largely involve finding both potential defendants and proving intent or knowledge as the mens rea for the crime. Although the descendants of the missionaries, business men, and invaders ("explorers") almost certainly are not apologetic for their actions, proving beyond a reasonable doubt that they intended to commit these crimes may be problematic.
The United States has granted some means of redress to Native Americans, such as in the Alaska Native Claims Settlement Act., 43 U.S.C.§§ 1601-28, Pub. L. No. 92-203 (1971) and the Indian Claims Commission Act, 24 U.S.C. §§ 70-70v (1970), yet a remedy that would actually

redress the effects of the overthrow of 1893 and the subsequent events remains elusive.

[9] *Id.* at 377.

[10] Davianna Pomaika'i McGregor, Pele vs. Geothermal: A Clash of Cultures (unpublished paper, March 1993) (available from the author, University of Hawaii at Manoa).

[11] LILLIKALA KAME'ELEIHIWA, NATIVE LAND AND FOREIGN DESIRES (KO HAWAII AINA A ME NA KOI PU'UMAKE A KA PO'E HAOLE): PEHEA LA E PONO AI? (HOW SHALL WE LIVE IN HARMONY?) 15 (1992).

[12] *Id.* at 25, 33, 40, 44.

[13] *Id.* at 25.

[14] *Id.* at 34.

[15] *Id.* 44-49.

[16] GEORGE KANAHELE, KU KANAKA: STAND TALL: A SEARCH FOR HAWAIIAN VALUES 43 (1986).

[17] Handy and Handy, *supra* note 44, at 63.

[18] These definition are taken from the author's conversations with various *kupuna* and other Hawaiian language speakers, and from Mary Kawena Puku'i and Samuel H. Elbert, Hawaiian Dictionary (revised and expanded edition 1986).

[19] Puku'i et al, *supra* note 44, at 289.

[20] *Id.* at 36.

[21] *Id* at 36-3a.

[22] Interview with Leianuenue Parker, Kumu, Kumu Honoa, in Honolulu, Hawaii (Nov.20, 1992).

[23] Handy and Handy, *supra* note 44 at 286.

# LEARNING OPPORTUNITIES K-12

The following sample learning opportunities may be helpful in integrating such concepts as peace, conflict resolution, justice, responsibility, authority, equality, and equity into your social studies curriculum.

You are invited to engage in these learning opportunities in ways that are unique to you and your students. You will determine which learner outcomes, essential content, peace and law-related concepts, intentions, questions for inquiry and processes are appropriate for you and your students. You will determine the value that the learning opportunity has for you and your students.

# Elements of a Learning Opportunity

The Learning Opportunities for Kindergarten through Grade 6 are based on this model.

## Create Together

***The teacher, in collaboration with colleagues and or students, generates a theme which is universal in nature.***

The theme is the unifying element that ties the outcomes, intentions, grade level focus, concepts, essential content, and learning opportunities together. With all of this in mind, the teacher and students generate and create questions, problems, topics for study, etc. The questions and problems that are worthy of rigorous investigation are generally open ended, broad, and issue related. Students and teachers are stimulated and instigated to question and think beyond their own current thoughts.

Brainstorming, webbing, clustering, free association, and listing are some strategies that are useful at this stage.

*(The teacher's role is one of learner, instigator, facilitator, observer, modeling effective questioning and social skills, and collector of assessment data.)*

## Learn Together

***This element is basically one of information gathering.***

Students and teachers together are collecting resources, such as lists of community people, other school members, literature, videos, audios, visuals, primary documents, music, and other sources of information. Students and teachers are also deciding how to collect and process the data, e.g., the most effective way to communicate with people. (E-Mail, telephone, letters of inquiry, etc). At this stage, students are also planning their presentation of learning and discussing possible criteria for evaluation of the projects and exhibits.

Useful strategies are webbing, charting, listing, KWL(*See Glossary), semantic mapping, other graphic organizers, and the 5 W's.

*(The teacher's role is one of facilitator, resource gatherer, observer, challenging students to go beyond present knowledge and skills, creating that zone of proximal development, taking advantage of the teachable moment, conferring with students, and sharing mini-lessons as needed.)*

## Engage Together

***This element is a highly energized stage in which the students and teacher are engaged in all the languaging, thinking, and learning processes.***

The teacher continues to build a supportive, encouraging, nurturing environment. The scene would include literature circles, authors' circles, inquiry groups, paired and shared readings and discussions, and cooperative and collaborative group work. Materials for research, discussion, and debate would be organized in text sets. The students are engaged in the work of social scientists, historians, and geographers. They are engaged in problem posing and solving, research and data processing, developing their projects, and recording processes and learning strategies in learning logs.

Reading and writing strategies are used to scaffold process and content for the students. The teacher models collaborative and social skill strategies as well as communication and high level thinking skills to create that zone of proximal development.

*(The teacher is observing for social, thinking, and languaging skills, recording information for assessment purposes, instigating, conferring, modeling, etc.)*

## Reflect Together

***This element occurs throughout the learning opportunity as the students debrief daily or weekly on the processes that are occurring in the course of their work.***

Students share their learning logs, study strategies, social skill strategies, etc. Students and teacher are reflecting on the processes, the projects that are in various stages of development, the merit of the topics, and social skills being used.

Cooperative learning strategies, such as 3-2-1, metaphors, role playing, Carousel, round robin and round table, are used to facilitate sharing of thoughts, skills, and processes.

*(The teacher's role is one of facilitator, observer, modeling cooperative and social skills, and again providing that safe environment where students can take risks, and be challenged, accepted and valued as worthy individuals.)*

## Assess Together

***This element occurs when the students and teachers are assessing the processes that evolved in the learning opportunity and***

***the projects that were created to celebrate and share the learning.***

The students and teacher apply the criteria which had been generated earlier to judge the merit of the projects. Students had ownership in the process and the content that was addressed in the learning opportunity. Both the process and the product are assessed for substance, worthiness, change in attitude or belief, growth in knowledge, development of a repertoire of cognitive strategies, social and collaborative skills, and high level thinking skills.

Cooperative learning strategies, such as, communication builders, concept development and attainment strategies, and mastery strategies are useful at this stage of the learning opportunity.

*(The teacher is observing, recording assessment data, facilitating, and supporting that sharing of the processes and products.)*

## Evaluate/Redesign Together

***This element may be the culmination of the learning opportunity, a starting point for extension of the opportunity or a new focus or opportunity, or a continuation with modifications and changes in directions or focus.***

Students and teacher are collaboratively discussing, assessing, evaluating, and redesigning the learning opportunity. New questions are being generated and further inquiry is established.

Cooperative strategies, such as communication and trust builders, are useful at this point.

*(The teacher is reflecting, observing, discussing, and planning with the students the next steps in the learning process.)*

The process is recursive, generative, and requires no specific starting point. One can begin an inquiry with available data and resources and move back and forth throughout the elements. It is not a linear process but rather an ebb and flow of activities and experiences.

*We have been born to associate with our fellowmen, and to join in community with the human race.*

*Cicero*

# Let's Do History
# Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Historical Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- individuals that have made/are making a difference in our lives and communities;
- events, issues in the context of their time and place that have shaped our community;
- historical significance of the areas where the student lives and attends school;
- symbols and holidays that reflect our national heritage;
- folk arts, literature, music, drama, games, and festivals that illustrate our common humanity, and that enrich our community; and
- current events and issues that impact on the family, community, and nation.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- human rights;
- respect;
- dignity;
- justice;
- conflict resolution; and
- cultural/gender/age diversity.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- engage in thoughtful conversation and activities;
- become conversant with the roles of the historian;
- demonstrate historical understandings based on focus of the learning opportunity;
- demonstrate appropriate conflict resolution strategies; and
- demonstrate courtesy and respect for each other.

## Inquiry Process: Teacher's Role

The teacher creates the working environment to foster dignity and respect in oneself, one's classmates and teachers, and one's school. Conflict resolution and mediation strategies are used to solve problems and conflicts which may arise in the process. Skills, e.g., note taking, interviewing, summarizing, and reporting are explained and demonstrated as needed.

## Initial Inquiry: Teacher

You may initiate this inquiry by inviting children to describe the word "history." This can serve as a KWL strategy. The direction will be guided by the children's responses. (You may want to record responses.) Some cue questions might be:

What is "history"? your family's? your neighborhood's?
Who were some people in history who were peace makers and problem solvers? elders, exceptional people, e.g., handicapped, women, Native Americans, Asians, Africans, and Americans.
*History is the story of our lives.* What does this mean to you?

## Students' Roles

You may invite historians from the local colleges to share how historians go about "doing" history.

After experiencing the different roles that historians engage in, students divide into cooperative groups according to historians' roles. * Note: Younger children may engage in the roles as a class so that all students would have an opportunity to learn all roles.

The interviewers' role is to seek the faculty and staff of the school and interview them using pre written questions such as: How are conflicts on the playground solved? What do the peer mediators do? How can we settle our arguments peacefully?

The researchers' role is to read bulletins, yearbooks, newspapers, and other documents about their school and interpret slides, photographs, and videos. The documents might focus on celebrations of diversity, cooperation, and/or contributions by classes or students.

The data collectors' role is to collect school data on conflict resolution strategies, number of conflicts resolved peacefully, and contributions of classes and students toward making the school a better place.

## Assessment and Extensions

Assessment is on-going, continuous, informative to instruction, and unobtrusive. The teacher reflects on activities as to their worth and merit and redesigns accordingly. Learning logs may be kept and skills are observed and refined. The learner outcomes, historical understandings, peace and law-related concepts, and intentions are assessed and evaluated for levels of sophistication.

Students compile their findings and create a school/class history book. Students may want to establish a history club. Others may work with older students to further pursue the history of the school and community.

Younger children may "do" a history of their family.

- Create timelines of events in their lives.
- Make graphs to compare data.
- Illustrate calendars of family events.

*Flowers are words which even a babe may understand.*

*Bishop Coxe—The Singing of Birds*

# Wildflowers
# Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Geographic Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- geographic characteristics of home, school, and community as one's unique place in space;
- dependency of Hawaii on other states and countries for some of its basic needs;
- responsibility of the individual and society to the natural environment;
- relationship between physical and human environments in different times and communities; and
- impact of interactions of people with the environment.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- responsibility;
- stewardship;
- respect;
- choice and consequences; and
- aesthetics.

## Intentions

The teacher selects the intentions that are approriate or includes his/her own. Students will:

- read and discuss literature on ecology to make decisions and solve problems;
- plan cooperatively and participate in a school community ecology project;
- demonstrate stewardship and respect for the land by creating natural "beauty"; and
- show appreciation for class, school and community environment.

## Inquiry Process: Teacher's Role

Teacher prepares a text set composed of multiple copies of fiction and non-fiction books on ecology. Selection criteria:

- Non-fiction books provide facts and discuss behaviors while fiction books raise more issues and deal more with attitudes.
- Photographs and realistic illustrations are seen as factual while cartoons and expressionistic illustrations are associated with fantasy.
- "Backyard" books about insects and trees are more appropriate and powerful than books about tundra or deserts, habitats which most children in Hawaii have not directly experienced.

Books used for this Literature circle are:
*Miss Rumphius* by Barbara Cooney, (Viking, 1982); *The Old Boot and The Picnic* by Chris Baines, (Crocodile Books, 1989); *Hey! Get Off Our Train* by John Burningham, (Crown, 1989); *Nora's Duck* by Saromi Ichikawa, (Philomel, 1991); *Loving the Earth: A Sacred Landscape Book for Children* by F. Lehrman, (Celestial Arts, 1990); and *Alison's Zinnia* by Anita Lobel (Greenwillow, 1990).
*There are numerous other books on ecology.

## Initial Inquiry: Teacher

Children browse and select a book from the text set and form an ecology study group based on their common selection. Children decide on how much to read and when to meet to discuss some of the following questions:

- What did you notice about the story? the characters?
- How did the characters act? What did they do? How did they think? What did they believe?
- What does the story remind you of in your life?
- How did the characters solve their problems?
- How can you show respect for the environment and the people in it?

Children are encouraged to respond to their own questions and prompts.

## Students' Roles

The group that chose *Miss Rumphius* and *Alison's Zinnias* may share their stewardship efforts by creating charts and graphs and journals to track their own caring behaviors.

*The Old Boot and The Picnic* Group can replicate the experiences in the book by obtaining an old boot to create a miniature ecosystem and/or observe insects on a class picnic or lunch on the playground.

*Hey! Get Off Our Train, Nora's Duck, Loving the Earth: A Sacred Landscape Book for Children* groups may form an ecology group or join the ecology movement in an active way by adopting an animal, purchasing a portion of a rain forest, or encouraging the use of natural pesticides.

## Assessment and Extensions

Assessment and evaluation are continuous and on going. The teacher observes, takes notes, and analyzes children's responses, behaviors and attitudes.

Some students may want to purchase packets of wildflower seeds and plant them around the school. * These packets may be purchased at "The Nature Company" at Ala Moana Center. Locations for the flowers can be discussed with geographical and aesthetic perspectives in mind. Make signs and labels and create a responsibility chart for caring for the wildflowers.

Students may plan an excursion to Foster Garden, Lyon Arboretum, Koko Crater Botanical Garden, etc.

Students may invite ecologists or botanists to speak to the class.

Students may plan other ways to show their caring for the enviroment and the people in it.

*Kindness is the golden chain by which society is bound together.*

*Goethe*

# Economic Centers Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Economic Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/ her class:

- importance of natural, human, and human-made resources in different times and places;
- impact of scarcity and role of money, markets, and prices on one's choices of goods and services;
- interdependence of producers and consumers in the family and community;
- interrelatedness of occupational roles for career development;
- roles and functions of economic institutions in the community;
- appreciation of the contributions of workers to society and the economy; and
- relationship between environment and economic development in communities in different times and places.

## Peace Law-Related Concepts

The teacher selects the concepts that will provide the perspective that is best suited for his/her students:

- responsibility and roles;
- choices and consequences;
- fairness and justice; and
- cultural/ethnic values.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- engage in courteous and respectful interactions;
- cooperate and act responsibly in the economic centers; and
- work individually and collaboratively for the good of all.

## Inquiry Process: Teacher's Role

Teacher prepares areas of the classroom as "economic centers"such as "grocery store", "bank", "fast food restaurant", etc. A "home" area may be adjacent so that children can play out experiences and feelings in several locations.

Concurrent with the dramatic play, the teacher reads and shares stories with related concepts, such as roles and responsibilities, choices and consequences, cooperation/interdependence among workers, and fairness and justice.

## Initial Inquiry: Teacher

A direct way of engaging the children while in the "centers" is through asking questions. The questions will not be disruptive if they are asked sensitively and are appropriate for the age and development of the children. Some examples of questions are:
How do you feel about money?
What happens if you don't pay for something?
How do people get money?
Why is the money put in a cash register?
Why do some people have more money than others? Is it fair?
What would you do if you did not have enough money to buy something that you needed?
How do you like to spend your money? What happens if you spend all of your money?
Does everybody need money? Why/why not?

The teacher's questions and responses will be guided by the children's experience, questions, and responses in turn. To elicit a wide variety of responses, the questions are open-ended and teacher responses are not judgmental in nature. Most of the above concepts are naturally addressed by the questions and responses of the children and teacher.

The children will experience various roles—stock clerk, manager, cashier, customer; and responsibilities—pricing items for sale, ordering goods, providing services for "customers", cooperating with others, etc.

## Assessment and Extensions

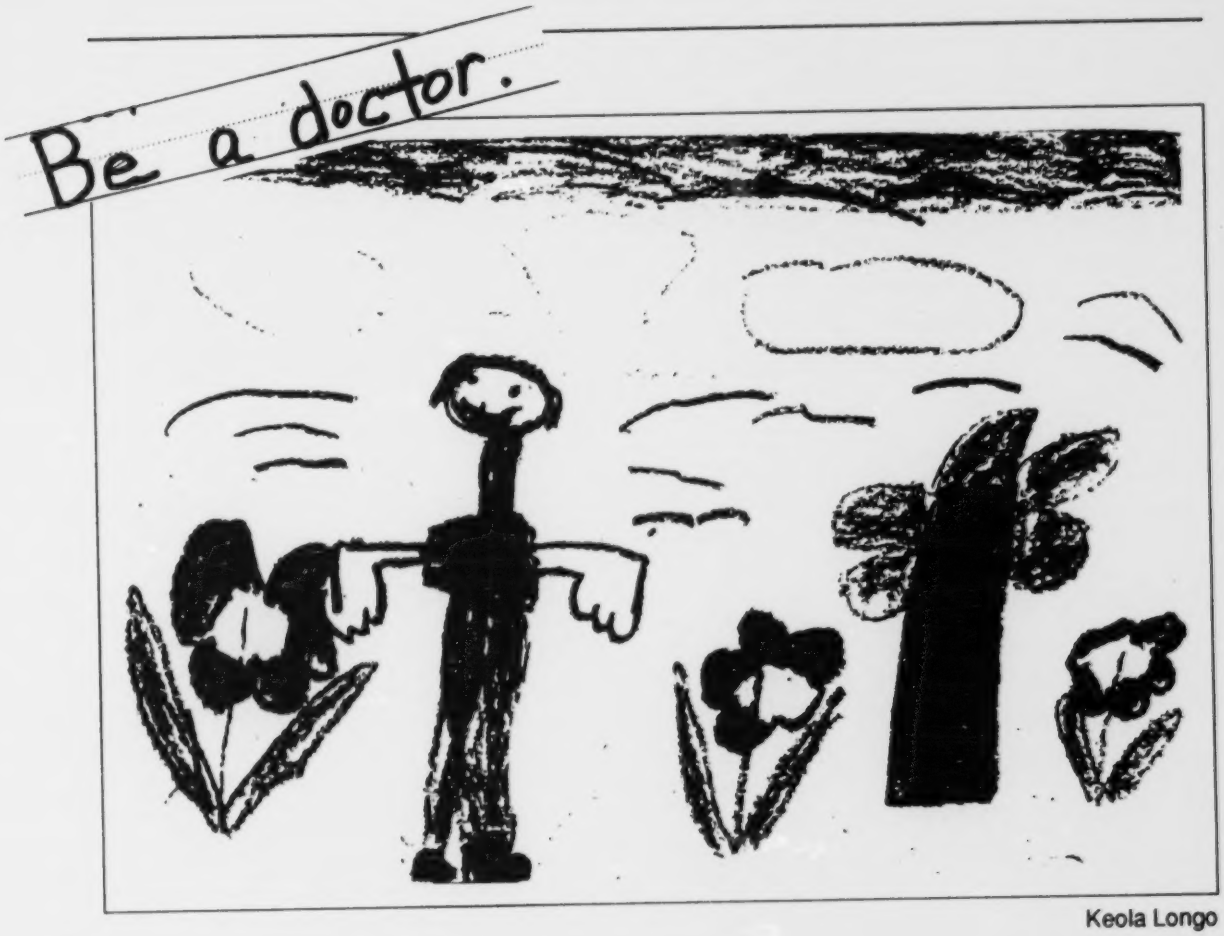
Assessment is on-going, continuous, and unobtrusive. The teacher is a keen observer and interpreter of children's behaviors and responses and uses this information for evaluation and reporting purposes.

Students may want to create other economic "centers" such as a toy store, book store, doctor and dentist offices, hospital or clinic, animal shelter, and/or food kitchen. The ideas will be generated from the children's experiences.

Students may write/produce tabloids, ads, commercials, flyers, etc. promoting a certain product. Ethics and cultural values are discussed when appropriate.

Students may come up with a code of behaviors for businesses based on fairness and justice as young children view these concepts.

Students may act out scenarios, role-play or produce skits demonstrating the concepts of economics and peace.




Keola Longo

*Let's go hand in hand, not one before the other.*

*Shakespeare—Comedy of Errors, Act V, Scene 1*

# Kin and Friendship Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Social Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- respect for self and others;
- skills of self appraisal;
- abilities and dispositions to work cooperatively and to manage and resolve conflicts;
- roles and functions of people and social groups in the community;
- interdependence of people in the *'ohana* and in the community;
- appreciation of own and others' cultures; and
- students as peacemakers and peacekeepers.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- responsibility;
- age, gender, behavioral roles;
- justice and fairness;
- kinship and friendship;
- respect for ethnic diversity;
- authority;
- choices and consequences; and
- values (material and emotional/social).

## Intentions

The teacher selects the intentions that are appropriate or includes her own. Students will:

- engage in role plays and skits that require thinking about their behaviors;
- experience different roles and the accompanying responsibilities; and
- demonstrate courteous behavior toward each other.

## Inquiry Process: Teacher's Role

The teacher prepares a brief skit (one-minute), or a story-situation, in which a real classroom situation, problem, or issue is dramatized. The teacher informs the children that they will be asked to tell what they think should happen next.

Clarification of the skit or story may be needed if the children respond with unrealistic or "magical" solutions. When the teacher encourages children to relate the problem to their own experiences, it helps children make sense of the issues being presented.

The teacher may invite the children to clarify their ideas or explore an issue for the kind of social problem being discussed, for example, material or emotional values.

## Initial Inquiry: Teacher

The initial question that the teacher asks after the skit establishes the dilemma, highlights the central issue, and begins the conversation.
Sample Skit:

- *Characters:* Brian and two friends
- *Materials:* Puppets or dollhouse figures
- *Action:* Brian, Joey, and Andy are friends and are playing with Brian's toy trucks. Joey and Andy grab the firetruck at the same time and the ladder breaks. Joey offers Brian a piece of candy to make him feel better while Andy sincerely apologizes.

*(Initial question)* Who is Brian's best friend—Joey who offered the candy or Andy who offered to apologize?
Why do you think so?
Are you a better friend if you give candy or if you apologize?
Why do you think so?
What else could they have done?
Do you think they were fair to Brian?

The teacher summarizes the conversations and thanks the children for their thoughtful participation. Since young children enjoy engaging in repeat performances, the teacher may follow-up with similar real life story situations. This strategy invites the children to elaborate their responses and to enhance their critical thinking.

## Students' Roles

Students are engaged in watching the skit (if it is acted out with puppets by the teacher), or acting out the roles themselves. Students may discuss the action and motives of the characters with the teacher asking questions and inviting the children to pose their own questions. "What if" questions are effective in creating new scenarios.

## Assessment and Extensions

Assessment is ongoing throughout the opportunity with the teacher observing, taking notes, and arranging situations to promote cognitive and affective development and understanding. As the children engage in the acting out of the script, the teacher is observing for understanding and demonstration of the content concepts and peace concepts.

Students may create their own scripts to role play other situations. They may use stories and books for ideas or real school/home experiences.

Students may act out scenarios, role-play or produce skits demonstrating the concepts of economics and peace.

Students may begin to learn the rudiments of conflict resolution strategies. Indian Talking Circle is one way to introduce young children to express their ideas and feelings and to promote empathy, listening skills, and rudimentary conflict resolution strategies.

Students may create puppet shows and perform for other classes.

Indian Talking Circle
by
Julie Kaohi Matsumoto

**Intentions**

- To allow students the opportunity to learn the cultural tradition of the Indian Talking Circle.
- To offer another way for students to express their feelings and ideas within a group.
- To promote empathy and listening skills.

**Activity**

Select an object (something of value or importance) to be used as a marker to indicate who is speaking. Children sit in a circle, and using the marker, begin to share feelings, ideas, etc. The basic ground rules are: the child with the object marker is the only one who speaks. All others listen until it's their turn.

**Extensions**

After once around the circle, the teacher can initiate a discussion of major concepts or feelings that were brought up during the Talking Circle. If needed, another round may be done. Subsequent discussions may be used for specific situations (i.e., teasing, fighting, or to problem solve a conflict, etc.)

A specific study of the Indian Talking Circle can be incorporated into this activity for upper level elementary students.

**Other thoughts**

The first time I did this activity with my first/second graders, they were a little apprehensive and some became silly. The next few times, they were more relaxed and were able to share more intuitively. In my opinion, the more practice students have with this activity, the more meaningful it will become.

*Democracy arose from men thinking that if they are equal in any respect they are equal in all respects.*

*Aristotle—Politics*

# We the People
# Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Political Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- fundamental values and practices of American democracy;
- function of rules and laws in a democratic society;
- function of laws, rules, and citizenship responsibilities in groups and communities;
- roles and functions of political groups and institutions in the community;
- contributions of civic groups to individual and group goals;
- rights, privileges, and responsibilities on the job, in the home and in the community; and
- historic documents, such as the Pledge of Allegiance, Constitution, and Bill of Rights, that unite us as a people.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- justice;
- rights and responsibilities;
- respect, pride, and dignity;
- cooperation and collaboration; and
- authority.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- read, write and/or converse with peers;
- contribute ideas and thoughts to the group; and
- listen to and respect others' views.

## Inquiry Process: Teacher's Role

The teacher might begin with **KWL** strategy. The teacher prepares a text set of materials related to the themes of responsibility, rules, laws, and democratic government.

Some examples on government are: *The Story of the Statue of Liberty* by Betsy and Giulio Maestro, (Lothrop, 1986); *The Star-Spangled Banner* by Peter Spier, (Doubleday, 1973); *Shh! We're Writing the Constitution* by J. Fritz, (Putnam, 1987); *We the People: The Constitution of the United States of America* by Peter Spier, (Doubleday, 1987).

Some examples on the theme of responsibility are: *Why Mosquitoes Buzz in People's Ears* by Aardema Verna, (Dial, 1975); *Clean Your Room, Harvey Moon!* by Pat Cummings, (Bradbury, 1991); *Just Like Max* by Karen Ackerman, (Knopf, 1990); *Oh, Emma* by Barbara Baker, (Dutton, 1991); *Wilfred Gordon McDonald Partridge* by Mem Fox, (Kane/Miller, 1985); *The Gorilla Did It* by Barbara Hazen, (Athenaeum, 1974); *Dogger* by Shirley Hughes, (Lothrop, 1988); *Tidy Titch* by Pat Hutchins, (Greenwillow, 1991); *It Was Jake!* by Anita Keram, (Little Brown, 1991).

## Initial Inquiry: The Teacher

The teacher may begin this inquiry by asking some of the following questions:
What do you know about government?
What comes to mind when you think of government? authority? laws? rules?
Why do we have government? laws? rules?
Have you heard of a constitution?
What do you think it might be?

The teacher can gauge the conceptual level of the students by listening and commenting on these types of questions.

## Students' Roles

The children in small groups talk about or write everything they **K**now about our US government and country. They list all of the things that they **W**ant to find out or **W**onder about the government and country. (The teacher can add his/her questions and wonderings also.)

Cooperative groups engage in reading, discussing, and writing about the books they have chosen.

Groups discuss what they have learned from the perspective of the peace-related concepts. Teacher may begin a discussion with such open-ended questions as: What did you notice about this story? What was new or different for you in this story? What would you have done?

Students record new information under **L**.

## Assessment and Extensions

Assessment is continuous with the teacher observing, recording, and analyzing data to further inform instruction and use of materials.

Students may write their own version of a constitution for the class.

Students may create charts of roles and responsibilities for the class and the school.

Students may illustrate their understanding of the concepts of liberty, democracy, justice, etc.

Students may illustrate the meaning of the Bill of Rights.

*Peace is obtained when people get along and understand each others' points of view and respect each other for who they are and not what they are.*

submitted by *Danielle Davis*
*Konawaena High School '93*

# Peace Heroes
# Learning Opportunity 4-6

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Historical Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- key individuals, events, and ideas in the context of their time that have shaped Pacific and American societies and the world;
- historic roots of ideas, institutions, practices, and controversies in American democracy;
- diversity of our multicultural heritage and history;
- multicultural connections in the visual and performing arts, sports and recreation, literature and languages, and religions; and
- current events and issues that impact our state, nation, and world.

## Peace and Law-Related Concepts

The teacher selects the concepts that will provide the perspective that is best suited for his/her students:

- justice;
- cooperation and collaboration;
- choice and consequences;
- aesthetics; and
- cultural/ethnic values.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- after reading and discussing form new ideas on concept of heroes;
- collaborate in reading, discussing, and writing about peace heroes; and
- act in a peaceful, caring, and genuine manner toward peers and elders.

## Inquiry Process: Teacher's Role

Teacher may begin this opportunity by reading *Maniac Magee* by Jerry Spinelli. This will take several sessions. Teacher invites children to discuss heroes and heroines.

Teacher provides a text set with music, poetry, picture books, fiction, and non-fiction on the theme of peace and its related concepts.

The following books can be the beginning of a text set on peace heroes.
*How the Children Stopped the Wars* by Jan Wahl, *The Peace Seekers The Nobel Peace Prize* by Nathan Aaseng, *Rosa Parks and the Montgomery*



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*Bus Boycott by* Teresa Celsi, *Young Peacemakers Project Book* and *Peace Works: Young Peacemakers Project Book II* by Fry-Miller and Myers-Walls, *Children as Teachers of Peace* by Gerald Jampolsky, ed., *Ain't Gonna Study War No More: The Story of America's Peace Seekers* by Milton Meltzer, *My World/Peace: Thoughts and Illustrations from the Children of All Nations,* Passport Books, *Father of the Orphans: The Story of Januscz Korczak* by Mark Bernheim, *Sitting Bull and the Battle of the Little Bighorn* by Sheila Black, *Gandhi* by Catherine Bush, *Chingis Khan* by Demi, *Cesar Chavez* by Ruth Franchere, *Lincoln: A Photobiography* by Russell Freedman, *Martin Luther King, Jr. and the March Toward Freedom* by Rita Hakim, *Clara Barton* by Leni Hamilton, *Anne Frank: Life in Hiding* by Johanna Hurwitz, *Gentle Annie: The True Story of a Civil War Nurse* by Mary Frances Shura.

## Initial Inquiry: Teacher

The teacher may generate some of the following questions to begin the conversation about heroes and peace heroes.
Who are heroes? heroines?
What makes a hero? heroine?
Who are some famous heroes? heroines?
How have your ideas of heroes changed after reading Maniac Magee?
Who are heroes in this class? school? community? state? nation? world?
What have you noticed about these heroes?
What are the commonalties? the differences?
What choices did they make?
What were the consequences of their choices?

## Students'Roles

After ample browsing time, students form interest groups and read and discuss the ways peace and heroes are viewed in the different genres.
Students in interest groups establish their own ground rules for reading, sharing, and discussing.

## Assessment and Extensions

Teacher and students establish criteria by which they will be assessed. Assessment can be on essential content, peace and law-related concepts, or the appropriate learner outcomes.

Students may engage in Reader Response activities which might include drawing milieus to show what peace looks and sounds like, milieus to show the social environments of some of the peace heroes/heroines, and presenting their understandings to the whole class.

The students may generate their own discussions and create responses to share their own interpretations of the books.

Students may engage in Sketch to Stretch activities. *(See Glossary.)

Students may want to write peace essays or other stories or biographies of their own peace heroes. *(See Peace Heroes Excerpts from Student Essays, p. 41.)

# Peace Heroes
# Excerpts from Student Essays

**Queen Liliuokalani**
by Shawna Wilcox
Kailua High School

When the Hawaiian monarch was overthrown, Queen Liliuokalani did not call for war because she did not want to see her people involved in bloodshed. Queen Liliuokalani inspires me because she stood up for what she believed in and because she thought of her people more than herself.

**Father Damien**
by Sonny Kassebeer
Kailua High School

Father Damien, originally Joseph de Veuster, became a priest at the age of nineteen. When he first arrived on the island of Molokai, he was horrified to see such bad cases of leprosy, or Hansen's disease. But he lived among the lepers, sharing the same food and eating from the same pot. He vowed to help them physically, emotionally, and spiritually, whether they were Catholic or not. He vowed to "build up their courage." Father Damien inspires me because of the hard work and dedication he devoted to helping those who were suffering.

**Jaime Escalante**
by Lissa Araneta
Kailua High School

Jaime Escalante was born in Mexico but later moved to America in his teens. He grew up poor in California and worked his way through college to earn a teaching degree. He got a job teaching math at Garfield High School, where students live in poor neighborhoods and often drop out before graduation. Students at this school had low self-esteem because of their school's reputation. But Jaime Escalante knew that his students could achieve more than they thought they could, and he pushed them further and further. He set a goal for his students: to earn the highest SAT scores in the county. He set up tutorial services, showed his students how to solve tough calculus problems, and inspired them to do their very best. With all his support and determination, Jaime Escalante's students achieved their goal and were able to move on to college to make a better life for themselves.

*The student writers are students of Ms. Carol Yoshinaga, COMMUNITY QUEST, Kailua High School.

*Everything in nature acts in conformity with law.*

*Immanuel Kant*

# Turf Maps
# Learning Opportunity K-3

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students.

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Geographic Content

The teacher focuses on the understandings/s that are most appropriate and relevant to his/her class.

- Geographic characteristics of states, nations, and the world
- Stewardship of and advocacy for the local and global environments
- Effects of geography and environment on migration, settlement, and technology
- Impact of technology on geographic boundaries
- Regional variations and connections between people and places

## Peace and Law-related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students.

- Ethics
- Stewardship
- Harmony with nature
- Ownership
- Respect for diversity
- Security
- Social and political boundaries

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- recognize the need for stewardship of our turf;
- have understanding how geography and environment affect people;
- respect each other's privacy and turf; and
- increase their awareness of the diversity of boundaries.

## Inquiry Process: Teacher's Role

Invite the students to draw a turf map. You may draw your own as a model and for clarification. *(Think of the boundaries,* i.e., *rivers, highways, fences, walls, bullies, whatever of your childhood.) Turf is the area around one's home where most playing, hanging out, and exploring takes place. It is an area in which one should feel safe and secure.*

During the learning opportunity, you may generate discussion about the need for stewardship for the earth, and how individuals and groups can make a difference. Teacher and

students can discuss strategies to use to resolve turf conflicts. Ownership of "turf" may have different meanings for different groups.

The teacher may want to prepare students for their discussions by reviewing the traits of effective discussions below:

- inviting others to contribute, responding thoughtfully to them;
- inquiring about accuracy, logic, or clarity of statements;
- stating and classifying issues;
- asking for definitions and facts;
- using analogies;
- supporting reasons and explanations;
- talking positions on issues; and
- summarizing points of agreement and disagreement.

## Initial Inquiry: Teacher

Some questions to stimulate inquiry might be:
How are boundaries defined? by landscape features? parents, your age? your mobility? disabilities? politics? How do you feel about your turf?
How are turf the same? different? urban, rural, suburban?
What would they look like in Russia? the former Yugoslavia? Somalia? Alaska? etc.
Why do people have conflicts over turf?
What did turf look like for Pilgrim children? Native American children? Pioneers? Relocation camp children? Slave children?
How do you care for your/our turf?

## Students' Roles

The students may establish boundaries, then draw in their homes and work outward. Scale is not important and details are not necessary. Some possible elements on a typical turf map:

- pets and other animals
- dangerous, scary places and people
- water boundaries, e.g., ponds, lakes, streams, puddles
- landscapes created by children, e.g., paths, forts, clubhouses, hiding places
- trees, gardens, yards, lots
- friends and neighbors
- stores, businesses, other buildings
- places where you had accidents
- seasonal activity areas, swimming, basketball, football, soccer, etc.
- special mystical places

Some questions that students may ask:
How are they the same?
Where do they overlap? How do you feel in your turf? out of your turf?
What did I find out about myself? My friends?
How do I care for my turf?
Does turf belong to me?
What about gangs and their turf?

## Assessment and Extensions

Assessment consists of observing and recording children's responses and behaviors to gain insight into present conceptual understanding of geography, peace and law-related concepts and intentions. Teacher and students self reflect and may keep learning logs or journals. You assess and evaluate the outcomes, understandings, concepts and intentions for growth and positive change.

Students compare each other's turf maps.

Students create historical turf maps, e.g., for Pilgrim children, children in relocation and concentration camps.

Students may form groups to care for the class and school turf.

Students can illustrate ways to care for turf.

Students can role-play/discuss conflict resolution strategies over turf boundary disputes.

*After all there is but one race—humanity.*

*George Moore—The Bending of the Bough*

# Sunshine Valley
# Learning Opportunity 4-6

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Economic Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- roles and functions of economic systems and institutions;
- relationship between technology and cultures;
- impact of scarcity and the role of supply and demand on markets and prices;
- interdependence among people and resources, including members in an *ahupua'a*;
- interdependence of consumers and producers in states, nations, and the world;
- contributions of occupations to the dignity of the individual; and
- relationship between work and lifestyle.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- cooperation and collaboration;
- fairness and justice;
- harmony;
- conflict resolution;
- respect for diverse values and beliefs;
- compatibility; and
- power and authority.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- use the scripts to critically evaluate the perspectives taken;
- cooperate within groups to create a Reader's Theater;
- create a script or presentation that reflects economic and peace and law-related concepts; and
- understand that perspective taking can improve the quality of relationships.

## Inquiry Process: Teacher's Role

Reader's Theater is a vehicle for teaching perspective taking. The students create their own script or read from scripted material. Reader's Theater requires students to take an active role and to take the viewpoint of the characters in the script. It requires minimum props and no memorization of lines, just students' creative and interpretative input.

Teacher provides the literature for the Reader's Theater and facilitates the conversations among students.

## Initial Inquiry: Teacher

The teacher initiates discussion by posing interpretive questions which require no single right answers, require examination of factual information, and assess motivation.

Teacher invites students to ask their own questions and issues.
What are customs? attitudes?
What is their relationship to laws?
What are values and beliefs?
What do you believe about ownership? of property? of air? sun? land? water?
These questions would naturally lead to issues of fairness, justice, respect for diverse thinking, etc.

## Students' Roles

Students in cooperative groups read the script for "Sunshine Valley," a story about conflicts over property rights, ownership, scarcity and use of resources, *(See Appendix for source.) or students create their own script.

Students discuss the values and beliefs of the characters and plan how to best portray the characters' feelings and attitudes. Students discuss perspective taking and defending a point of view that may not be compatible to their own point of view.

Students plan how to present the script using simple props, discussing intonations and expressions, and adding their own script to embellish or enrich the original script.

Groups share their Reader's Theater presentations to whole class.

## Assessment and Extensions

Assessment is ongoing, unobtrusive, and an integral part of instruction.

Students create an original Reader's Theater script for presentation to other classes. The teacher observes the behaviors and attitudes expressed in the Reader's Theater activity. Students and teacher discuss criteria for excellence in a Reader's Theater.

Students can write and perform skits, mini-plays, tableaux, and other dramatic renderings which focus on the peace and law-related concepts.

Students can read literature about peace heroes and act out scenes from the stories.

Students can explore the economic concepts that relate to issues of peace and conflict. Role plays and simulations are effective to demonstrate economic understandings such as scarcity, role of supply and demand, and relationships among people and resources.

*Prejudice is the child of ignorance.*

*Hazlitt*

# Well-informed Citizens
# Learning Opportunity 4-6

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Social Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- respect for others and their contributions;
- abilities and dispositions to work cooperatively and to manage and resolve conflicts;
- appreciation of cultural diversity of families and communities;
- roles and functions of social institutions in the Pacific, the nation, and the world;
- cultural, ethnic, racial origins of people in selected regions;
- traditional and changing values and lifestyles of people in various regions of the world;
- role of religion and spirituality in the societal structure of early Hawaii;
- role of the *kapu* system in early Hawaiian society;
- current social issues that affect our lives; and
- students as peacemakers and peacekeepers.

## Peace and Law-Related Concepts

The teacher selects the concepts that will provide the perspective that is best suited for his/her students:

- diversity;
- respect and appreciation;
- values and beliefs;
- conflict resolution;
- peace and harmony; and
- consensus.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- read and analyze articles and discuss solutions for problems;
- participate in a group effort to correct a problem;
- create a solution to a real problem; and
- engage in behaviors that create a better environment for self and others.

## Inquiry Process: Teacher's Role

The teacher creates a environment where students are comfortable to engage in conversations about issues, concerns, and problems in the classroom. Students are welcome to express their views openly and honestly and are respected and listened to.

## Initial Inquiry: Teacher

Some questions to stimulate inquiry may be: What are some issues, conflicts, problems,

concerns facing us in this classroom? school? community? city? state?
What can any one individual/group do to alleviate the problem?
What does it mean to be well-informed?
How can becoming well-informed reduce prejudice and stereotyping? increase tolerance and respect for diversity?
How can one become well-informed?
What is consensus? agreement? compromise?
What is good citizenship?

After the intial inquiry, the teacher provides several different current newspaper articles on wars, conflicts, issues, or problems that the community, state, nation, world face.

## Students' Roles

Students read articles in small cooperative groups. Students may do shared paired reading, Jigsaw, or other cooperative ways to read material. Groups discuss article and determine and interpret the problem or issue.

Each group attempts to answer the following question: How can we deal with this problem in a way that satisfies the needs of all involved?

Students look at all the solutions and try to determine the effects that each solution will have on the well-being of the people. After brainstorming all possible solutions, group members try to come to consensus on the best solution that meets the criteria of the question.

Groups share their problem or issue and the solution to the class.

## Assessment and Extensions

Teacher assesses by observing behaviors, problem-solving strategies, attitudes toward diverse ideas and solutions, willingness to be open-minded, and appropriateness of the solutions.

Students may determine a problem in their neighborhood or school and create a plan of action to alleviate or eliminate the problem.

Students can role-play incidents or events which portray prejudice or stereotypes and brainstorm how to resolve them peacefully.

Students may become fully engaged and continue to pursue solutions or express their views through letters to the editors or by taking personal and civic affirmative action in the community.

*Liberty is the only thing you cannot have unless you are willing to give it to others.*

*William Allen White.*

# Reenactment - 1776
# Learning Opportunity 4-6

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Political Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- fundamental values expressed in the Declaration of Independence, Constitution, and the Bill of Rights;
- democratic principles and processes in practice;
- structure of American government and politics;
- laws and citizenship responsibilities in local, national, global contexts;
- roles, functions, practices of political systems and institutions;
- importance of the *ahupua'a* in the governance of early Hawaii;
- people, events, and forces that advanced/obstructed the cause of liberty, justice, equality; and
- contributions of civic groups to individual and group goals.

## Peace and Law-Related Concepts

The teacher selects the concepts that will provide the perspective that is best suited for his/her students:

- justice;
- equity and equality;
- freedom/liberty;
- contributions;
- rights and responsibilities; and
- compromise.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- read and discuss literature to gain perspectives on political concepts;
- use democratic processes, e.g., discussion, open forums, cooperative controversy, and voting;
- collaborate with each other to create a constitution or other similar document; and
- advocate and work to foster justice and equity in classroom, school, and larger community.

## Inquiry Process: Teacher's Role

Teacher provides a text set on the period right after the Revolutionary War. Include fiction and non-fiction, poems, art works, music, etc. The text set is comprised of biographies and historical fiction of the prominent and common people of the times.

Some books to include are: *1787* by Joan Anderson, *Captain Grey* by Avi, *Tree in the Trail* by Holling C. Holling, *By Wagon and Flatboat*

by Enid Meadowcroft, *Grand Pap and Ellen Aroon* by F. N. Monjo, *Buffalo Knife and Winter Danger* by William Steele, *Constitution* by J. Anderson, *A Convention of Delegates* by D. Hauptly, *If you were there when they signed the Constitution* by E. Levy, *The Bill of Rights: How we got it and what it means* by M. Meltzer, *We the People: The Constitution of the United States of America* by P. Spier, and *American Freedom and the Bill of Rights* by W. Wise.

## Initial Inquiry: Teacher

Teacher initiates inquiry by asking some of the following questions:
What is a constitution?
Who were the people who wrote it? What were their values? beliefs? attitudes?
What does it have to do with our country?
What do you know about our constitution?
What was the Revolutionary War about?
What do you know about it?
Could it have been prevented?
What else could the colonists have done?
What is a democracy?
What does it mean for me?

## Students' Roles

After reading and discussing literature of the period, the students are invited to use *Shh! We're Writing the Constitution* by Jean Fritz as the basis for writing a script for a play. The groups could divide up the events and incidents in the book and prepare scripts and scenes to reenact the framing of the Constitution for presentation as a class play.

## Assessment and Extensions

The concepts of justice, equality, compromise, rights, responsibilities can be assessed through observation of student behaviors as they are reading, discussing, and preparing the scripts for the play.

The students, after conducting research, may recreate speeches and scenes and take various parts of the characters and each group could present scenes that may or may not be part of a whole class play.

Students could write a classroom Constitution and Bill of Rights.

Students in cooperative groups could demonstrate the concepts of liberty, justice, equality, etc. using art, music, drama, math, language, or other sign systems to communicate their ideas of those concepts.

*Personal liberty is the paramount essential to human dignity and human happiness.*

*Bulwer-Lytton*

# Peter's Debatable Dilemma
# Learning Opportunity 7-12

By Sue Ann Chun

## Learner Outcomes

The teacher selects the outcome/s to work toward based on the needs of his/her students:

- *informed and reflective* thinkers who utilize available information and technology to critically and creatively make decisions and solve problem;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Historical Content

The teacher focuses on the content concepts that are most appropriate and relevant to his/her class:

- multiple causation, change, and continuity in Hawaiian, American and Pacific Islands social, political, and economic history;
- relationships among the key people, events, places, documents, and issues in the context of their time that shaped Hawaii, the Pacific Islands, and the United States;
- multicultural connections in the visual and performing arts, literature and languages, sports and recreation, and religion; and
- current events and issues that connect to our state and/or national history.

## Background

*Night Journeys* by Avi is best utilized during a unit on life in Colonial America while or after the students are learning/have learned about "Quakers" and "indentured servants." The book's setting is colonial Pennsylvania in 1767. Peter York, a 12-year-old orphan is sent to live with Everett Shinn, a highly respected Quaker and Justice of the Peace. Because of his public responsibility, Mr. Shinn has been called upon to help capture two runaway indentured servants. Peter enthusiastically joins in the search until he discovers that the runaways, English felons who were sent to America in servitude, are a boy and a girl his own age. Peter's conflict with Mr. Shinn, who is bound to uphold the law, becomes entwined with the indentured servants' search for freedom.

## Peace and Law-Related Concepts

The teacher selects the concepts that will provide the perspective that is best suited for his/her students:

- justice;
- freedom; and
- choices and consequences.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- identify two law-related concepts that were the over-all themes in *Night Journeys;*
- formulate questions that identify the basic issues of the themes in the story; and
- take a stand on one of the issues addressed in the novel and present this stand in an essay, a cartoon, or a speech.

## Initial Inquiry: Teacher

The teacher will state the following issue, "Is it morally right to break a law if the law is unjust?"

## Students' Roles

The students will participate in a class value line. (This structure is taken from Spencer Kagan's Cooperative Learning.)

The students will mark a value line on their own slip of paper.

When all have marked their lines, they will take a stand on an imaginary line which stretches from one side of the classroom to the other. They will stand in the spot along the line which corresponds to where they have marked their own value line.

Students will then pair up with a person on either side of them in the line and discuss why they took the stand they did.
The line will then be "folded." Students on the agree end will walk to the disagree end to find a new partner with an opposing position. Students will again discuss why they took the stand they did, and each will paraphrase what the other has said.

## Inquiry Process: Teacher's Role

The teacher reads the first 12 pages orally with the class. Stop at various points in the reading to discuss the following geographic locations as they are mentioned: Pennsylvania, New Jersey, Delaware River, Trenton, and Easton. The teacher may also discuss the following terms: Quakers, indentured servant, bondsmen, malefactor, felon, and justice of the peace.

Stop the reading at page 12 and tell the class that they will read the rest of the book for homework during the next week. While they are reading, they are to think about the dilemma that Peter finds himself in and the important decisions that he must make regarding his conflict. After each night's reading, they will record in their reading log/journal reactions to their reading which must also include at least one question for which the student does not have an immediate and clear answer. These questions will be processed later in a group discussion.

When the students are finished reading the book, the students and teacher will discuss the events in the story. The students work in teams and use Kagan's cooperative learning structure called "roundtable." Students make a list of their responses on a piece of paper; each student contributes one answer and passes the paper to the student on his or her left.

The teams each share a fact which the teacher will write on the board. From these facts the teacher will facilitate the formation of a composite picture of the "facts of the case."

After the facts have been established, the teacher asks the students to look over the entries in their reading logs/journals and then formulate in their small groups the issues that are involved in the story. Encourage them to look not only at Peter's dilemma, but also at the circumstances or laws that possibly led to this conflict.

Have each group share their issues with the class. The teacher writes these on the board. The following issues are identified and others that students may suppose.

Was it just for the English courts to impose punishment such as imprisonment and indentured servitude in America to young children who stole because they were poor and hungry and therefore, stole as a means to survive?

Were the children justified in running away as a means to seek their freedom?

Were Peter's moral convictions regarding freedom and justice paramount to the law? (In other words, were Peter's behavior and actions right?)

When the issues have been identified, the students will select one of the issues and express their own personal ideas on the issue by writing an essay, creating a cartoon, or delivering an oratory. Set a deadline for these creations. These will be shared and discussed with the class.

After the students have shared their personal beliefs on the issues, the teacher will end the learning opportunity by doing the following:

Have the students participate in a class value line using the same procedure and value issue as in the initial line-up. The students will not fold the value line but will discuss in pairs why they took the stand they did, and if the stand is different from their previous stand on the issue, they will explain why they changed their opinions. Students will be asked to share their responses with the class.

For more personal meaning, have the students write in their reading log/journal a response to one of the following topics: Did the story remind you of an actual personal experience that you have had? If so, describe the dilemma, your decision, and how you arrived at that decision.

## Assessment and Extensions

Entries in their reading log/journal are used for assessment purposes.

Asessment can also be presentations of ideas on issues in the story, a cartoon, or an oratory on one of the three issues raised in the story.

## Notes

There are many good books and short stories with law-related content. In fact, a good book to team with *Night Journeys* is *Huckleberry Finn*. Huck faces a similar dilemma when he is

asked to help Jim, a slave, escape to freedom. It is important to select those with law-related themes that are timeless and those that relate to events and decisions in our students' lives. Literature serves as a bridge that allows students to vicariously experience a historical events or time period and also to analyze an event.

This lesson can be done by a social studies teacher alone, but it is better to engage both a social studies and a language arts teacher. One suggestion is to have the language arts teacher focus on one book such as *Huckleberry Finn* and the social studies teacher focus on a book such as *Night Journeys*. The students could then contrast the conflict, solutions, and characters in both books. Using literature such as *Night Journeys*, the two teachers can make connections between their subjects in terms of knowledge, skills, and attitudes. These connections are powerful and can only foster greater student understanding.

Avi, *Night Journeys*, New York: Pantheon Book: 1979.*

*This book is no longer in print, but most public libraries have copies of the book.

Sue Ann Chun is a teacher at Wheeler Intermediate School. She participated in *Legacy*, a Partnership Program for Teachers and Attorneys in Law-Related Education.

# Legal Case Studies
# Learning Opportunities 7-12

To understand the complexities of the evolution of Hawaii's legal system from customary law as practiced in traditional Hawaiian society to a system based on Western jurisprudence, two case studies are examined.

A case study is a problem situation or an unfinished story used as a classroom exercise. The objective of the case study approach is to learn to analyze various positions or take positions and justify them rationally, not to learn the correct answers. Therefore, assessment should be based on the student's performance in reasonably justifying whatever position he/she takes, and not on the mastery of substantive truths.

The first case history, *The Case of Kamanawa*, is from 1840—a mere 62 years after Captain Cook's arrival in Hawaii. The situation in 1840 can be described as a time when a new system based on Christian morality and English common law was being imposed on the Hawaiians by a powerful faction of the *ali'i* and their foreign-born advisors.

The second case history, *Reppun v. Board of Water Supply*, is a part of our recent history with roots tied to traditional values and practices. This case went to the Hawaii Supreme Court in 1982. It is a landmark case and reintroduces customary law from pre-contact Hawaii into contemporary jurisprudence.

# The Case of Kamanawa

## Learner Outcomes

The teacher selects the outcome/s based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Essential Content

The teacher focuses on the content understandings that are most appropriate and relevant to his/her class. The following are examples of these understandings:

- historical understandings: multiple causation, change and continuity in Hawaiian, American, and Pacific Islands' social, political, and economic history;
- social understandings: current social issues that affect our lives; and
- political understandings: (1) fundamental democratic principles and practices in American political, economic, and social life; and (2) change and continuity in democratic institutions and practices.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- justice;
- equality; and
- law.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- engage in thoughtful discussions and cooperative work groups;
- possess knowledge and understanding of the impact of Western rule of law on traditional Hawaiian society; and
- evaluate the effects of change.

## Teacher's Role

The teacher creates the working environment to foster respect for each other and creates a safe place for students to offer their ideas. Accept all ideas, asking for clarification or explanation as desired. Group interaction skills and processes are explained and practiced as needed.

## Inquiry Process

1. Introduce this case by discussing the nature and purpose of law. Questions may include: What is law? What is its purpose? What is meant by the expression, "Ours is a government of laws, not of men?"

Write all responses given by students, withholding judgments on responses and asking for clarification and explanations as desired.

2. Begin to ask questions to bring some consensus on the definition of law. Consider the following questions:
   - Is there an element of morality in law?
   - Would anyone argue that a society could exist without law?
   - Is there a relationship between morality and self interest?

3. Have students read *The Case of Kamanawa.*

4. Case Study Method: Have students in small groups:
   a) list the facts of the case, clarifying and agreeing on definition of terms;
   b) identify the issue/s involved, clarifying the various positions, viewpoints, and underlying values; and
   c) assume they are jury members and consider alternatives and consequences, arrive at a decision, and state the underlying values and assumptions; and
   d) cite the jury's decision and reasons for that decision.

5. After the groups have completed their task, the teacher may conduct a large group discussion covering each of the points. E.g., What are the facts? What happened?

   Other questions may include: Which facts are important? Unimportant? What statements can be inferred as reasonable assumptions? (Students should support their responses.) Are there some facts not given that we need to know? E.g., What were the general customs and traditions of Hawaiians? What competing values and interests were involved in this case?

6. Shift the discussion to the issues involved. The most critical part of any case study is/are the issue/s. The decision in a case is based on what the issue/s is/are perceived to be.

   Have students identify, define, and frame the issue/s in "Whether or not . . ." statements. E.g., "Whether or not the divorce law was just? Whether or not a Hawaiian court should apply Western standards?"

   In this phase of exploring issues, the teacher's role is to help students to recognize and to reexamine the assumptions they are making and the values and attitudes they are bringing to the discussion.

7. Have the groups exchange their written decision and opinions. If groups differ, form new teams and allow groups to appeal the decision.

8. In conclusion, point out that there are two

results of any case:

a) a verdict of guilty or not guilty is determined;
b) a precedent is set for future cases of a similar sort. Every case makes law for society. We need to look at a case's effect on the law. What would be the effects of various decisions possible in the Kamanawa case?

# The Case of Kamanawa

by Mary Tuti Baker

On September 30, 1840, a criminal court was convened to try two Hawaiians accused of the willful murder of the former wife of one of the defendants. This criminal proceeding came at a critical point in the development of Hawai'i as a "modern" nation.

Kuykendall writes the following about the period from 1823 to 1840:

> The government was slowly changing under the influence of foreign ideas and the play of domestic politics. A system of laws was being evolved. The growing interests of foreigners brought to the front the problem of their place in the community and their rights as domiciled or transient aliens. The question of Hawaiian independence and the status, within the family of nations, of this small kingdom was emerging as one which would soon need solution. . . . So the Hawaiian rulers gropingly made their way through an unfamiliar field, slowly replacing in part the old *kapu* and customary laws by written statutes after the manner of foreign lands. That they did not act wisely at all times is not strange. In law enforcement and the development of the machinery of justice the same halting progress is discernible. At first the enforcement of any law depended upon the disposition of the local chief — indeed, most of the early laws were in the nature of local regulations, and it was only slowly that the idea of uniform law enforcement came to be understood. . . . In the old days and as late as 1824 capital punishment was inflicted at the will of the king or superior chief and without trial. After 1825 trial by jury was introduced and the mode of execution was fixed at hanging. The first case of this kind was in 1826.[1]

The law of the land and its enforcement had been evolving rapidly away from the traditional system towards a system that was understandable to foreigners. The King and Council of Chiefs had in fact come to depend on the advice of the missionaries and foreign traders on the proper conduct of government and this dependency was reflected in the promulgation of new laws and ensuing court cases.

For Kamehameha III and the foreign delegations present, this trial was a test. The conduct of this trial would send a message to foreign governments that Hawai'i was indeed on its way to becoming a part of the international community that recognized due process according to the laws of the land.

The first Constitution of the Hawaiian nation was on the verge of being promulgated. This Constitution would put in writing and codify for the first time, justice and the due process of law. It would proclaim the equality of commoner and nobility in the eyes of the law and establish a court system with district judges and a Supreme Court.

Kuykendall notes, concerning the Constitution of 1840, "Another innovation was the creation of a supreme court, to consist of the king, the *kuhina nui*, and four other judges appointed by the representative body. Aside from the grant of the common people to exercise political power, the Constitution of 1840 was important for the reason that it put in writing — somewhat crudely, it is true — a statement of the plan of government and a definition of the powers and duties of the various officials."[2]

The trial also gained notoriety at the time because one of the defendants was Kamanawa, a high ranking chief. This would indeed be a test of the King and his Council of Chiefs. Could they mete out justice according to the law of the land without regard to noble birth? Kamanawa was grandfather to a future king and queen, David Kalakaua and Lili'uokalani, and a friend of the King.

It was Kamanawa's wife, Kamokuiki, who was poisoned on September 26, 1840. A month prior to the murder, Kamokuiki had been granted a divorce from Kamanawa on the grounds of his acts of adultery. The law of 1835 and 1839 stated that "if a husband was guilty of adultery the wife could obtain a divorce from the Governor. She could remarry, the husband could not while the wife was still living."[3] Kamanawa wanted to marry another woman so he conspired with Lonoopukau to poison his former wife.

In 1840, there was no official court recorder so no transcript of the proceedings exist today. A brief account of the trial was given in *The Polynesian*, a weekly publication of the time.[4] Mary and Amos Cooke and Levi Chamberlain, all residents of Honolulu, gave accounts of the incident.[5] Commodore Charles Wilkes, the

Head of the United States Exploration Expedition, also wrote in his journal about the events including his advice to the king, Kamehameha III, on the matter.[6]

The Governor of the island of Oahu, Matthew Kekuanaoa, presided as judge over the proceedings and twelve Hawaiians were selected as jury. The accused were allowed to challenge the jury and to select counsel.

The trial took a single day. After the jury was selected, the Governor heard the presentation of evidence. He questioned the defendants, Kamanawa and his accomplice Lonoopuakau. They told of the events leading up to the crime, pleading guilty to poisoning Kamokuiki's *awa*. Kamanawa claimed that he did not know that the poison would kill. Lonoopuakau's defense was that he did not give the poison to Kamokuiki.

When the evidence was heard the Governor probably delivered the charge to the jury, instructing them on the law of 1835 under which defendants were being charged. "Whoever takes the life of another with a malicious design to kill, he shall die." This was called willful murder. There was also a lesser crime in the laws called unintentional murder, "Whoever in anger destroys human life, yet not intending to kill, he shall be imprisoned four years." The jury returned from their deliberation with a verdict of guilty of willful murder.

On October 5th Kamehameha III signed the death warrant. It was not an easy decision. Because of Kamanawa's high rank, the King was petitioned to pardon the convicted murderer. The King consulted with Commodore Wilkes who reminded him that the law must stand above all men, even high ranking chiefs. Three days after signing the death warrant, Kamehameha III and his *Kuhina Nui*, Kekauluohi, promulgated the first Constitution of the Hawaiian nation.

This trial was a milestone in Hawaiian judicial history. The editors of *The Polynesian* summed up the event this way:

> Kamanawa is of very high rank by blood, and his trial and condemnation by his peers shows in them a commendable determination to assert the supremacy of their laws, however high the rank of the offender. The trial throughout was conducted in a very respectable and dignified manner and

made a favorable impression upon the minds of the strangers present. We were much gratified with the conduct of the Governor, his charges to the jury, and the clear and succinct manner with which he conducted the examination of the prisoners.

In the files of the Foreign Office and Executive at the State Archives, there is a letter to Boaz Mahune which describes the events surrounding the trial. The letter is in Hawaiian and is supposed to be from Paul Kanoa to Boaz Mahune, two public servants in the Hawaiian government.[7] This letter gives details of the kind of poison that was used in Kamokuiki's *awa* and the doctor's autopsy. It sums up the trial with the following words, "On the 30th the trial was held and both of them were convicted. Nothing will save them." The letter goes on to give an account of a curious event following the Kamanawa trial. "On the 3rd of October, about dawn of that day, Kanaina accused Matthew and Kekauluohi of adultery. The trial took place that day in the presence of Richards, Ii, John Young, Ha'alilio, and Kamehameha III. They were not guilty and therefore let out; but the case is liable to come up again . . ." Kanaina is Kekauluohi's husband. Matthew is Matthew Kekaunaoa, Governor of O'ahu and Kekauluohi is *Kuhina Nui* or Regent to Kamehameha III. Richards is a missionary who took on the role of advisor to the King and Ii, Young and Ha'alilo are trusted advisors to the King.

It is unclear whether there is a connection between the telling of the Kanaina event and the murder trial. It seems clear that the divorce law which was first announced during the reign of Ka'ahumanu as *Kuhina Nui* was a controversial one. In 1841, the divorce statute was amended to allow a spouse convicted of adultery to remarry during the lifetime of his or her former spouse. Did this amendment come about in some way as a result of the Kamanawa murder trial?

In 1840, the rules by which Hawaiian society functioned changed fundamentally. An ali'i of high rank by blood is condemned to death by a jury of his peers. All people, no matter what their station in life, became subject to the same rule of law.

During this time, laws based on Christian moral behavior conflicted with traditionally acceptable behavior of the Hawaiian society. The transition of the traditional Hawaiian society into an international

community would pose difficult challenges for her people.

*Mary Tuti Baker is an independent consultant and researcher.*

**NOTES**

1. Kuykendall, Ralph S., *The Hawaiian Kingdom*, Volume 1, pp. 117, 126-127. In reference to the first trial by jury and subsequent execution, he cites a letter from Richards to Wilkes, March 15, 1841 in the State Archives, and the Chamberlain journal, MS in Hawaiian Mission Children's Society Library, December 18, 1826.
2. Kuykendall, p. 167-168.
3. Getting pp. 195-196 and Letter Certificate of Divorce, F.O. & Ex., August 16th, 1840.
4. *The Polynesian*, October 3 and 20, 1840, State Archives.
5. Cooke, A.S. and J.M. *The Chiefs Children's School*, Honolulu, 1937, p.84.
   Amos Starr Cooke Journal, Sept. 28, Oct. 4, 9, 19, 20, 1840, ms., HMCS.
   Levi Chamberlain Journal, September 30, typescript ms, HMCS.
6. Wilkes, Charles, *A Narrative of the United States Exploring Expedition*, Philadelphia, 1845, v.3, pp. 29-30. also Morgan, W.J. and others (eds.) *Autobiography of Rear Admiral Charles Wilkes*, Washington D.C., 1978, p. 499.
7. Silverman, Jane L., *Auwe Ku'u Ali'i*, p. 5. (unpublished manuscript prepared for Judiciary History Center)

# Reppun v. Board of Water Supply

## Learner Outcomes

The teacher selects the outcome/s based on the needs of his/her students:

- *informed and reflective thinkers* who utilize available information and technology to critically and creatively make decisions and solve problems;
- *responsible citizens* who use democratic processes to actively participate in community activities and recognize their stewardship in the use of the earth;
- *productive members of society* who use their knowledge and skills to work individually and collaboratively; and
- *caring individuals* who see themselves as part of the larger society and work to improve the quality of life in their diverse communities.

## Essential Content

The teacher focuses on the content understandings that are most appropriate and relevant to his/her class. The following are examples of these understandings:

- historical understandings: (1) multiple causation, change and continuity in Hawaiian, American, and Pacific Islands' social, political, and economic history; (2) people, events, and issues that have shaped and are shaping our world;
- economic understandings: impact of economic issues and public policies on individuals, groups, and nations; and
- political understandings: change and continuity in democratic institutions and practices.

## Peace and Law-Related Concepts

The teacher selects the concept/s that will provide the perspective that is best suited for his/her students:

- justice; and
- law.

## Intentions

The teacher selects the intentions that are appropriate or includes his/her own. Students will:

- engage in thoughtful discussions and cooperative work groups;
- analyze various positions and give reasoned judgment on an issue; and
- possess knowledge and understanding of the conflict between customary law and Western jurisprudence.

## Teacher's Role

The teacher creates the working environment to foster respect for each other and creates a safe place for students to offer their ideas. Accept all ideas, asking for clarification or explanation as desired. Group interaction skills and processes are explained and practiced as needed.

## Inquiry Process

1. Introduce this case by discussing the nature and purpose of law. Questions may include: What is law? What is its purpose? Should customary Hawaiian law be honored by the courts? Should the traditions and customs of immigrants be considered when they conflict with Western

law?

Accept all responses, withhold judgment, and ask for clarification and explanation as desired.

2. Use the case study method with the class. In small groups have students:
   a) read the case, Reppun v. Board of Water Supply;
   b) list the relevant facts of the case;
   c) clarify any questions and agree on working definitions of terms;
   d) identify the issue/s. State the issue/s as "Whether or not . . ."statements;
   e) clarify the various positions, viewpoints, and underlying values;
   f) cite the court's decision and rationale for the decision; and
   g) decide whether or not you agree with the court's decision. State your reasons.

3. After the groups have had time to complete their task, the teacher may conduct a class discussion covering each of the points above. Other questions may include:
   - Which facts are important? How do you decide what's important?
   - Is there additional information that you need to know?
   - What assumptions are you making? What values and attitudes are you bringing to the discussion?

4. Have each group share its decision and then ask students to share their reasons for the decision.

5. Ask students if anyone changed his/her position after hearing the reasons of the other students. Discuss what led them to change their position.

6. Compare students' positions with the court's decision.

7. Debrief the activity.

| + | △ |
|---|---|
| (positive things) | (things that could be changed) |

Accept all responses, asking for clarification as desired.

# Reppun v. Board of Water Supply

by Mary Tuti Baker

On December 7, 1976, four taro farmers, Charles and Paul Reppun, and Robert and Seiyu Nakata, filed a complaint for a declaratory and injunctive relief against the Board of Water Supply. They were later joined by taro farmers Rachel Hall and Clifford Wong. The farmers were asking the court to stop the Board of Water Supply from diverting water from Waihe'e Stream. The farmers all grew taro in *lo'i* or pond fields, which depended on water from Waihe'e Stream. This civil suit eventually found its way to the State Supreme Court and has become a legacy of statutes and court rulings regarding water rights in Hawaii.

The lawyers for the taro farmers presented arguments that depended on customary practices governing the use and distribution of water that were established in pre-contact Hawai'i and the legal doctrines that were established during the time of the Monarchy. These legal doctrines were reinforced in a decision of the Supreme Court of the State of Hawaii in the McBryde v. Robinson (1973) case.

McBryde v. Robinson involved "a dispute between two Kauai sugar plantations over Hanapepe Stream water, (in which) the State Supreme Court ruled water rights could not be transferred to the detriment of others along the waterways."[1] The Supreme Court also ruled that "surplus water could not be privately owned and that the state owned the excess surface waters. However, the Court recognized that the private parties had certain vested rights to water."[2] This doctrine was further clarified in the Reppun v. Board of Water Supply decision. "Then Chief Justice William S. Richardson said that the state is keeper of a public trust for the people of Hawai'i, rather than outright owner of surface waters."[3]

In pre-contact Hawai'i, water was plentiful and customary law said that water was not owned, but was to be shared by all. The transition from customary law to Western-style laws is summarized in *The Native Hawaiian Rights Handbook* and is excerpted below:

> The concept of water ownership did not exist in ancient Hawai'i. Water was a procreative force identified with the gods. . . . From the ancient Hawaiian perspective, water was not owned, but was subject to a right of use for productive purposes. The

development of water rights in Hawai'i reveals the tension between this ancient concept of use rights and the Western-imposed private-ownership system. . .

The traditional Hawaiian system of land tenure and water rights began to change with the arrival of foreigners, particularly Western merchants, to the islands. . . the Declaration of Rights and the Constitution of 1839-1840 attempted to adjust the changing land rights of the chiefs, the people, and Westerners. The constitution declared that all lands had belonged to Kamehameha I, but not as his own private property. The land belonged to the chiefs and the people, subject to the King's management. The traditional notion of the king's trusteeship of land was therefore codified into law. . .

In contrast to the movement toward private ownership of land, the laws of 1839 treated water as a natural bounty reserved to all of the people. . .

The language (of the law 'Respecting Water for Irrigation' revealed the king's intent to assert his sovereign power to regulate water for the common good.[4]

In Reppun v. Board of Water Supply, the Hawai'i Supreme Court maintained that the state inherited the King's sovereign responsibility to hold the water in trust for the people.

The water use rights referred to in Reppun v. Board of Water supply are appurtenant and riparian rights. In Hawai'i, appurtenant water rights have evolved out of the traditional agricultural and water management practices of pre-contact Hawaiians. Lands that were in taro cultivation at the time of the Mahele in 1848 were and still are recognized as having appurtenant rights. "Through ancient custom and usage, the right to use water for irrigation became attached or 'appurtenant' to taro lands." [5] Appurtenant rights derived from the amount of water customarily used. Customary rights became legal after title to the land was awarded.[6]

The word "riparian" comes from the Latin word "ripa," meaning bank. Therefore, a riparian land owner is one whose land is situated on the banks of the steam, and riparian rights are those which the land

owner has to the use of waters from the stream.[7] Riparian water rights are part of the common law of England. The common law of England was incorporated into Hawaiian law by the legislature in 1892; but the law was "subject to Hawaiian statutes, Hawaiian judicial precedent, or Hawaiian custom and usage."[8]

Legal action was the last resort for the farmers. They had first contacted the Board in 1974 when the water was first being pumped from the stream. In 1975, the farmers experienced crop damage which they could prove was because there was less water in Waihe'e Stream. The farmers said they needed a minimum of three million gallons a day to grow their taro. The Board of Water Supply said it could only allow 2.2 million gallons per day to flow into the stream. When it became obvious that the two parties couldn't resolve their dispute, the farmers took the issue to court.

December 7, 1976, was just the beginning of a long court battle. In this civil suit, the farmers were asking the court to stop the Board of Water Supply from pumping water out of an underground source that feeds Waihe'e Stream. The farmers asserted that they had appurtenant and riparian rights to this water. The Board of Water Supply responded that they owned all the rights to the water so they could take as much of it as they wanted. The farmers and the Board of Water Supply were competing for the water.

Negotiations between the farmers and Board of Water Supply broke down and on August 1, 1977, the farmers filed a motion in Circuit Court to permanently block the Board of Water Supply from reducing Waihe'e Stream below three million gallons of water a day.

On August 9, 1977, the taro farmers and the Board of Water Supply faced each other in court. Lawyers for the farmers argued that their clients had appurtenant and riparian rights to the water. Lawyers for the Board of Water Supply relied on the argument that they had purchased these rights from previous owners of the land as well as the fact that the water was from an underground source. This meant, they argued, that the Board of Water Supply had a right to pump the water from the well they built on land that they owned.

At this hearing the Judge issued a temporary injunction against the Board of Water Supply. The injunction ordered the Board to take less water from their wells so that

the flow of water in Waihe'e Stream would be at least 2.3 million gallons per day. This judgment was a compromise between the interests of the farmers and the Board of Water Supply. This excerpt from an article by Stirling Morita in the *Honolulu Star Bulletin* on August 16 summarized Judge Fong's reasoning:

> In ordering a 30-day experimental time period to see if the amount of extra water will be adequate for the farmers, Fong said the farmers had some rights to the stream water before the Board of Water Supply took them away.
>
> But Fong noted that he did not want to hurt the Windward side water system by depriving the system of a source of water and thus forcing other water wells to pump harder and bring undesirable salt water.
>
> 'I wish I could duck some of the issues,' Fong said, 'but this court would be derelict if it did not rule this afternoon.'
>
> Fong set the experimental time period in which measurement will be taken because there were no facts presented as to how much water taro really needs. . .
>
> Fong said he had to weigh the interests of the farmers versus the interests of the urban dwellers on the Windward side.
>
> 'Applicable to the proceedings,' Fong said, 'is the McBryde v. Robinson case. . .'

This preliminary ruling stayed in effect until the case went to trial in February 1979. During this time, the farmers continued growing taro. A news article in the *Honolulu Star Bulletin* describes a study the farmers began. "The farmers, in conjunction with the University of Hawaii, have been measuring the water temperature to see if the increased flow is keeping it below 77 degrees. Above this level, taro rot sets in."[9] This study would be used in the trial.

The farmers and the Board of Water Supply faced each other in court once again on February 12, 13, and 14, 1979. One reporter described the first day of the trial as "a partial education in taro culture and economics as well as Windward water development."[10] The farmers kept the trial atmosphere friendly by throwing a "pot-luck luncheon in the foyer of the Territorial Building featuring poi and taro salad."[11] The second day of the trial was held on the

banks of the Waihe'e Stream.

On February 23, Judge Fong announced a decision which was unsatisfactory for both the plaintiff and defendants. He "issued a permanent injunction requiring the Honolulu Board of Water Supply to leave 2.7 million gallons of water a day in Waihe'e Stream for use by the Windward Oahu taro farmers."[12] He later told the Advertiser, "I had to use by best judgment."[13] His reasoning was essentially the same as when he issued the preliminary injunction. Here is what the *The Honolulu Advertiser* and *Star Bulletin* said about the judge's decision.

> In his ruling yesterday Fong said the Waihe'e decision was probably 'the most difficult' one in his 4 1/2 years on the bench because of the 'confusion' in water rights law.
>
> He said the case was also complicated by the varying amounts of water, ranging from 30,000 to 50,000 gallons per acre a day said to be needed to grow taro.
>
> 'This particular issue,' he said, 'gave him much headache.'
>
> 'The problem is compounded by poor planning of water sources by the state,' Fong said.[14]
>
> The problem, he (Judge Fong) said was that there was not enough water to supply both the needs of Windward 'Oahu and the farmers. He said it was difficult to balance the needs.
>
> In preliminary remarks before announcing his decision, he said there was much complexity in Hawai'i water rights laws and that this complexity existed before the 1973 ruling by the Hawai'i Supreme Court in the case of McBryde Sugar Co. v. Robinson.[15]

The case was appealed to the Hawai'i Supreme Court by both taro farmers and the Board of Water Supply.

The Board contested the lower court ruling that the taro farmers have appurtenant and riparian rights to the water flowing through their land. The Board claimed that it purchased these and all water rights from the previous owner.[16] Judge Fong interpreted the Supreme Court opinion in McBryde v. Robinson to mean that these rights could not be separated from the land; in other words, the Board of Water Supply could only acquire these rights if they owned the particular parcels of land.

The Board of Water Supply asked, among other things, that the Supreme Court overturn their previous ruling on McBryde v. Robinson.

The taro farmers contested the amount of water, 2.7 million gallons per day, that the lower court established as the minimum flow of the Waihe'e Stream. According to the ruling, there wasn't enough evidence given at the trial about how much water was actually necessary for taro farming at the time of the Mahele. If this could be determined, then Judge Fong would have had a specific quantity of water to which the farmers were entitled. Since, in his judgment, there wasn't enough evidence the judge used his best judgment to arrive at a compromise. Lawyers for the taro farmers argued that "modern farming methods and water requirements was sufficient to establish the quantity. . . "[17]

On December 20, 1982, the Supreme Court issued its ruling in this case. They ruled that the farmers were entitled to the same amount of water for their crops that they had at the time that diverting the water began to damage their crops. The Supreme Court sent the case back to Judge Fong in Circuit Court "to decide how much water the farmers should be allotted."[18]

After the Supreme Court ruling, the state enacted a statewide Water Code. A commission was formed to resolve water use disputes. The Water Commission is designed to be a less expensive means to settle disputes such as these.

The Reppun v. Board of Water Supply case serves as an example of the evolution of Hawai'i's legal system from pre-contact to the present. In pre-contact Hawai'i, traditional practices and customary law determined what was appropriate use of resources. In the last century, Western concepts of rights and ownership took precedence over customary law, and the decision in the Reppun v. Board of Supply case seems to strike a balance between customary law and Western concepts of ownership.

*Mary Tuti Baker is an independent consultant and researcher.*

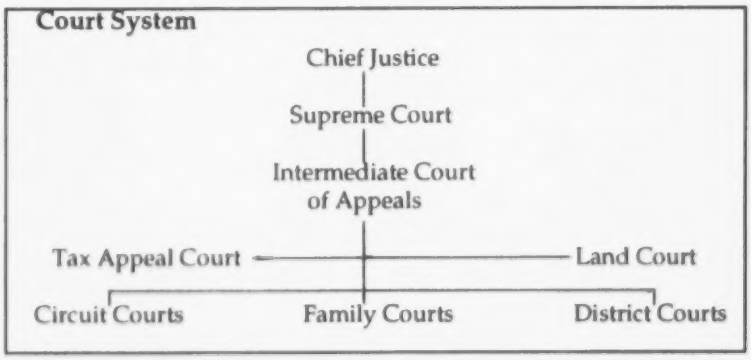
## Notes

1. *Honolulu Star Bulletin*, September 12, 1978.
2. *Honolulu Star Bulletin*, September 20, 1983.

3. *Honolulu Star Bulletin*, September 20, 1983.
4. Mackenzie, Melody K., (ed.), *Native Hawaiian Rights Handbook*, Chapter 7, Water Rights, pp. 149-151.
5. *Native Hawaiian Rights Handbook*, p. 154
6. *Native Hawaiian Rights Handbook*. p. 154
7. *Native Hawaiian Rights Handbook*, p. 154
8. *Native Hawaiian Rights Handbook*, p. 159
9. *Honolulu Star Bulletin*, October 7, 1977
10. *Honolulu Star Bulletin*, February 13, 1979
11. *Honolulu Star Bulletin*, February 13, 1979
12. *Honolulu Star Bulletin*, February 23, 1979
13. *Honolulu Star Bulletin*, February 23, 1979
14. *Honolulu Star Bulletin*, February 23, 1979
15. *Honolulu Star Bulletin*, February 23, 1979
16. Reppun v. Board of Water Supply, Supreme Court Opinion, 65 Haw, pp. 555-556 gives a synopsis of the land transactions.
17. Reppun v. Board of Water Supply, Supreme Court Opinion, 65 Haw, p. 537.
18. *Honolulu Star Bulletin*, December 22, 1982. Confirmed by interview with Charlie Reppun, January 26, 1994.

# Hawaii State Court System

Several types of courts make up Hawaii's judicial system. The differences among them lie in the kinds of cases each court can decide. This is called the court's jurisdiction. For example, circuit courts have jurisdiction in criminal felony cases such as assault and murder, while district courts have jurisdiction in traffic cases.




The state court system includes the Supreme Court, Intermediate Court of Appeals, Circuit Court, District Court, Tax Appeal Court, and Land Court. Family Courts are included in the Circuit Courts.

## Courts of Appeal

The Judiciary's courts of appeal are composed of the Supreme Court and the Intermediate Court of Appeals (ICA). These courts at the appellate level hear appeals from all trial courts and specific state boards and agencies.

Cases usually do not begin at the Supreme Court or the Intermediate Court of Appeals, although some may end there. The kinds of cases these appellate courts hear are different from those handled by trial courts. They handle cases which are appealing the decisions of trial courts or decisions of some state boards and agencies. For example, these cases usually involve legal issues, such as questions of state or federal constitutional interpretation or questions of a law regarding the validity of state statute, county ordinance, or agency regulation. Unlike the trial courts, they do not decide the guilt of the accused.

To present a case before the appellate courts, the parties must file briefs explaining the basis of the appeal and the law or laws which apply to the particular case. After the case is reviewed by the Chief Justice or his designee, it is assigned to the Supreme Court or the Intermediate Court of Appeals. Generally, cases assigned to the Supreme Court involve issues regarding the law or the formulation and development of new laws, while cases assigned to the Intermediate Court of Appeals involve possible court error or the application of settled

law.

Appeals are heard by the Courts through oral arguments. At a hearing, attorneys are given the opportunity to explain their position/s and respond to questions from the justices. After the hearing, the justices confer and discuss the issue/s of the case and arrive at a decision.

**Supreme Court**

The Hawaii Supreme Court, located in Ali'iolani Hale in Honolulu, is the highest court in the state. It has jurisdiction to decide questions of law or mixed law and fact involved in cases brought to the Supreme Court on appeal from a lower court. As an appellate court, it can uphold or reverse the decisions of the trial courts. If a decision is reversed, the case often has to go back to the lower court for a new trial.

In addition to making important decisions on the law, the Supreme Court is responsible for licensing and disciplining attorneys, evaluating complaints against judges, and determining judicial fitness. It also issues rules for all courts which have the force and effect of law.

The Chief Justice, who presides over the Supreme Court and four associate justices, is the highest legal and administrative officer in Hawaii's judicial system. The five members of the Supreme Court are appointed to ten-year terms by the Governor with the consent of the Senate. Each member of the Supreme Court is selected from a list of at least six nominees submitted to the Governor by the Judicial Selection Commission.

As the highest court in the State, the Supreme Court's decision is final in Hawaii. Should someone disagree with the Court's decision, he or she may appeal the decision to the United States Supreme Court. This procedure is applicable if a case involves a question dealing with the United States Constitution.

**Intermediate Court of Appeals**

The Intermediate Court of Appeals has concurrent jurisdiction with the Supreme Court and usually reviews trial court decisions for errors and seeks to correct such errors. A decision by the Intermediate Court of Appeals may be appealed to the Supreme Court.

The Intermediate Court is headed by a Chief Judge and includes two associate judges. Each judge is appointed to a ten-year term by the governor, subject to the consent of the Senate, from a list of six nominees provided by the Judicial Selection Commission.

## Trial Courts

Hawaii's trial courts are comprised of Circuit Courts, which include the Family Courts and District Courts.

The judicial circuits consist of the following: First Judicial Circuit—island of Oahu and settlement of Kalawao on Moloka'i; Second Judicial Circuit—Maui County; Third Judicial Circuit—Hawaii County; Fifth Judicial Circuit—Kauai County. (There is no Fourth Judicial Circuit since it merged into the Third Circuit in 1943.)

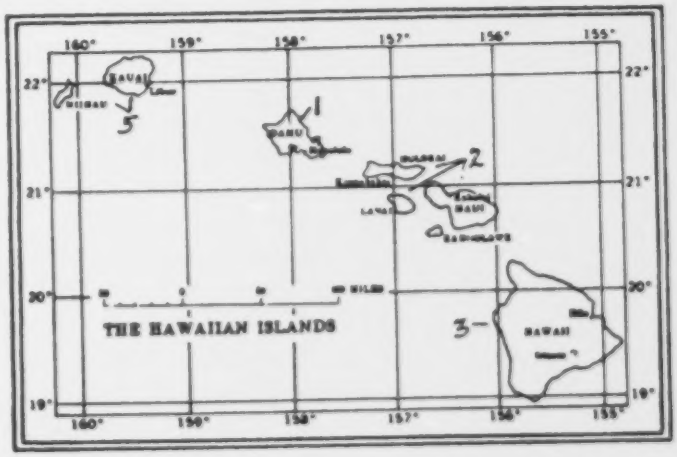
### Circuit Courts

Most of the cases which receive the most publicity are heard in Circuit Courts. This is because Circuit Courts hears serious criminal cases and civil cases involving large sums of money.

All jury trials are heard in Circuit Courts, which have jurisdiction in civil and criminal cases. They have exclusive jurisdiction in criminal felony cases, in probate and guardian cases, and in civil cases where the contested amount exceeds $10,000. Circuit Courts share concurrent jurisdiction with District Courts in non-jury civil cases where the contested amount is between $5,000 to $10,000.

Circuit Courts are also empowered to issue necessary or appropriate writs, orders, and warrants, compel attendance of witnesses at trials, and issue injunctions to stop violations of state laws or county ordinances.

Circuit Court judges, like appellate judges, are appointed to ten-year terms by the Governor, subject to the approval of the Senate,




1 First Judicial Circuit
2 Second Judicial Circuit
3 Third Judicial Circuit
5 Fifth Judicial Circuit

and follow a similar selection process.

**Family Courts**

The Family Courts were established to deal specifically with problems arising in the family environment. The judges hear many types of cases ranging from non-criminal matters involving adults and juveniles to criminal matters involving family members.

These courts have jurisdiction in cases involving youths younger than age 18 in situations defined by statute. In serious cases, Family Courts may waive jurisdiction over youths younger than 18 to the adult courts. Family Courts also have jurisdiction over adults who are involved in family law cases, such as divorce, adoption, custody, spouse or child abuse, and visitation rights. Cases may also include truancy, neglect, abandonment, and paternity suits.

Family Court proceedings are conducted in a more informal atmosphere than the adult courts and are not open to the public.

Family Court in Honolulu also supervises Hale Ho'omalu, the juvenile detention center, and Home Maluhia, the status offender shelter. Many of the juveniles at the center are picked up for status offenses, offenses which are not crimes if committed by an adult. Status offenses include running away from home and truancy.

**District Courts**

District Courts have exclusive jurisdiction over traffic cases, petty misdemeanors, and all civil cases in which the contested amount is less than $5,000, except when there is a right to a jury trial. They share concurrent jurisdiction with Circuits Courts in civil matters involving amounts of $5,000 to $10,000. All cases tried in District Courts are non-jury trials and are decided by the presiding judge.

Annually, almost one million cases are filed in the District Courts. Traffic violations cases constitute the bulk of the filings.

District Court judges conduct probable cause determination hearings within 48 hours of any arrest without a warrant to determine whether there is probable cause for the arrest. They also conduct preliminary hearings to determine whether there is probable cause to believe that the felony a defendant is charged with has been committed and that the defendant committed it. If the Judge finds probable cause, the defendant is committed to the Circuit Court for further proceedings.

District Court judges are appointed to six-year terms

by the Chief Justice from a list of six names submitted by the Judicial Selection Committee.

### Small Claims Court

Small Claims Court was established to simplify the court process for citizen grievances. Complaints filed in Small Claims Court may involve a) recovery of money where the amount claimed is less than $2,500; b) the return of leased or rented personal property worth $1,500 or less; c) settlement of disagreement between landlord and tenant about the security deposit; and d) the recovery of damages sustained or for repossession based upon the unauthorized removal of shopping carts or similar devices from any business.

The procedures in Small Claims Court are simple and informal, and the services of a lawyer are not necessary. At the hearing, each party will be required to present the facts of the case to the judge. Witnesses and documents that relate to the case are important. The decision of the judge is final. There is no right of appeal from a judgment of Small Claims Court.

## Land Court

The Land Court, a statewide court of record headquartered in Honolulu, has exclusive jurisdiction of all applications for the registration of title to land and easements or rights in land held and possessed in fee simple within the state.

## Tax Appeal Court

The Tax Appeal Court, a statewide court located in Honolulu, has jurisdiction over disputes between the tax assessor and taxpayer. Such disputes may include matters regarding excise, liquor, income, property, and insurance taxes.

## Alternative Dispute Resolution Programs

The Center for Alternative Dispute Resolution (The Center) assists in resolving disputes in ways other than traditional litigation. It mediates complex disputes and designs mechanisms for dispute resolution.

The Judiciary has a long range view toward a "multi-door" courthouse where disputes will be sent to the appropriate "door" such as mediation, traditional cultural practices, or trial court.

# Judiciary History Center

The Judiciary History Center is a permanent education and research facility located on the first floor of Ali'iolani Hale. The Center serves the public through exhibitions, research, collections, and other educational activities focusing on Hawaiian concepts of law and the development of a Western judicial system.

Established by the Hawaii State Legislature in 1990 through Act 211, the Center provides the opportunity for people of all ages to increase their knowledge and understanding of Hawaii's unique legal history and Ali'iolani Hale.

Since opening to the public in September 1989, the Center has become a popular educational resource serving more than 54,000 visitors, many of them school children.

The general public is welcome to take self-guided tours of the Center on Tuesdays, Wednesdays, and Thursdays from 10 a.m. to 3 p.m. There is no admission fee. Visits by school and community groups are welcome on weekdays (excluding holidays) with reservations.

A variety of activities vividly portrays the Center's theme of transition from pre-western contact Hawaiian *kanawai* to a Western legal system. A pre-visit resource packet is distributed to teachers to prepare students for their tour. The packet includes historical information and a script of a lively 19th century court case for students to reenact in the restored 1913 Courtroom. Role-playing this early Hawaiian trial has become a favorite learning activity for students and teachers. Some classes video tape or photograph the mock trial as a record of their visit to the Center.

The video, "Kaulike, the History of Hawai'i's Judiciary," is also available for teachers to use in preparation for a site visit or as a supplement to classroom curriculum.

For more information contact:

*The Judiciary History Center*
417 S. King Street
Honolulu, Hawai 96813
(808) 539-4999

# The Judiciary - State of Hawaii
# Court Orientation Tours

Guided orientations of the First Circuit Court (Ka'ahumanu Hale) in Honolulu are available through the Judiciary's Volunteers in Public Service (VIPS) to the Courts program.

To arrange for group visitations of the First Circuit Court (777 Punchbowl Street):

Contact:
VIPS Program
P.O. Box 2560
Honolulu, HI 96804
Phone # 539-4880

Office Hours:
Monday through Friday
7:45 a.m. to 4:30 p.m.

Please provide:
- At least 30 days advance notice
- Name of school or organization
- Preferred date and time of visit
- Total number of visitors (maximum 50)
  # of students/# of adults (see next column)*
- Grade level(s) of students
- Contact name, phone number, and mailing address

Orientation Hours:
9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.
(Hours may be adjusted within designated time.)

Orientation includes:
- Discussion of levels of courts, physical courtroom arrangement, roles and responsibilities of court officials, jury selection
- Possible speakers (judge, deputy sheriff, or other court official)
- Possible visitation to courts in session
- Possible visitation to cellblock

* It is requested that one teacher/chaperone accompany each group of 25 students.

To arrange for visitations to other Judicial Circuits:

Second Circuit Court (Maui)..... 242-5537
Third Circuit Court (Hawaii)..... 933-1584
Fifth Circuit Court (Kauai)..... 246-3303

# Universal Declaration Of Human Rights

*adopted by the United Nations General Assembly on December 10, 1948*

## Preamble

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for the observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, Therefore,*
THE GENERAL ASSEMBLY *proclaims*

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common Standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member States themselves and among the peoples of territories under their jurisdiction.

*Article 1*—all human beings are born free and equal in

dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

*Article 2*—Everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, nonself-governing or under any other limitation of sovereignty.

*Article 3*—Everyone has the right to life, liberty, and security of person.

*Article 4*—No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

*Article 5*—No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*Article 6*—Everyone has the right to recognition everywhere as a person before the law.

*Article 7*—All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Article 8*—Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9*—No one shall be subjected to arbitrary arrest, detention, or exile.

*Article 10*—Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

*Article 11*—(1) Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the

time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*Article 12*—No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

*Article 13*—(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14*—(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15*—(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

*Article 16*—(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

*Article 17*—(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

*Article 18*—Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 19*—Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20*—(1) Everyone has the right to freedom of

peaceful assembly and association.

(2) No one is compelled to belong to an association.

*Article 21*—(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

*Article 22*—Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

*Article 23*—(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

*Article 24*—Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

*Article 25*—(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection.

*Article 26*—(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. El-

ementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance for peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

*Article 27*—(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

*Article 28*—Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

*Article 29*—(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30*—Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

# A BILL FOR AN ACT

RELATING TO HAKU AND HO'OPONOPONO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 9-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 2. Section 571-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

""Haku" means a well-respected unbiased individual who is knowledgeable and trained in the practice and principles of ho'oponopono.

"Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and





maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 3. Section 576-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

""Haku" means a well-respected unbiased individual who is knowledgeable and trained in the practice and principles of ho'oponopono.

"Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 4. Section 576E-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

""Haku" means a well-respected unbiased individual who is knowledgeable and trained in the practice and principles of



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ho'oponopono.

"Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 5. Section 586-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

""Haku" means a well-respected unbiased individual who is knowledgeable and trained in the practice and principles of ho'oponopono.

"Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 6. Section 587-2, Hawaii Revised Statutes, is





amended by adding two new definitions to be appropriately inserted and to read as follows:

""Haku" means a well-respected unbiased individual who is knowledgeable and trained in the practice and principles of ho'oponopono.

"Ho'oponopono" is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 7. Section 9-3, Hawaii Revised Statutes, is amended to read as follows:

"§9-3 Duties. The foundation shall:

(1) Assist in coordinating the plans, programs, and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of culture and the arts and history and the humanities;

(2) Establish written standards and criteria by which grant contracts shall be evaluated;



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(3) Appraise the availability, adequacy, and accessibility of culture and the arts and history and the humanities to all persons throughout the State and devise programs whereby culture and the arts and history and the humanities can be brought to those who would otherwise not have the opportunity to participate;

(4) Stimulate, guide, and promote culture and the arts and history and the humanities throughout the State;

(5) Devise and recommend legislative and administrative action for the preservation and furtherance of culture and the arts and history and the humanities;

(6) Study the availability of private and governmental grants for the promotion and furtherance of culture and the arts and history and the humanities;

(7) Through its chairperson:

(A) Administer funds allocated by grant, gift, or bequest to the foundation; accept, hold, disburse, and allocate funds which may become available from other governmental and private sources; provided that all those funds shall be disbursed or allocated in compliance with any specific designation stated by the donor and in the absence





of any designation, the funds shall be disbursed or allocated for the promotion and furtherance of culture and the arts and history and the humanities; and

(B) Accept, hold, disburse, and allocate public funds that are made available to the foundation by the legislature for disbursement or allocation, pursuant to the standards and procedures established in part II, for the promotion and furtherance of culture and the arts and history and the humanities;

(8) Select and employ a director to serve on a part-time or full-time basis who shall be a person who by reason of education or extensive experience is generally recognized as being professionally qualified in the administration of programs in the fields of culture and the arts and history and the humanities, who is familiar with the peoples and cultures of Hawaii, and who shall be exempt from chapters 76 and 77 and select necessary additional staff subject to chapters 76 and 77, within available appropriations;

(9) Submit an annual report with recommendations to the

governor and legislature, prior to February 1, of each year. Annual reports shall include the total number and amount of gifts received, payroll disbursements, contracts entered into, and progress and accomplishments made during the year;

(10) Display student art works in public buildings, sponsor student art displays, and in other ways encourage the development of creative talent among the young people of Hawaii;

(11) In cooperation with qualified organizations conduct research, studies, and investigations in the fields of ethnohistory and the humanities; make, publish, and distribute works documenting the contributions of individual ethnic groups in their relationship to one another and to the whole population of Hawaii; place ethnohistorical and cultural materials developed by the foundation or received by the foundation as gifts and donations in public archives, libraries, and other suitable institutions accessible to the public; and maintain a register of the location of such materials;

(12) Cooperate with and assist the department of land and natural resources and other state agencies in







developing and implementing programs relating to historic preservation, research, restoration, and presentation, as well as museum activities; [and]

(13) Establish an individual artist fellowship program to encourage artists to remain and work in Hawaii and to reaffirm the importance of Hawaii's artists and their cultural and economic contributions to the State by:

(A) Recognizing and honoring Hawaii's exceptionally talented visual and performing artists for their outstanding work and commitment in the arts; and

(B) Enabling these artists to further their artistic goals[.]; and

(14) Acknowledge, foster, and encourage, the public on the benefits of the use of ho'oponopono to resolve differences whenever practicable."

SECTION 8. Section 321-241.5, Hawaii Revised Statutes, is amended to read as follows:

"[[]§321-241.5[]] Teenage health program. (a) The department of health, in cooperation with the department of education, may establish a statewide teenage health program designed to enhance self-esteem, facilitate communication between students and their parents, incorporate ho'oponopono techniques





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in group discussions, expand peer counseling efforts, and provide more counseling opportunities. In implementing this program, the department shall strive to respect and include the diverse needs and values of parents and teens served by the program.

(b) As used in this section, "ho'oponopono is the traditional process of dispute resolution utilized by native Hawaiians. Ho'oponopono means setting to right; to make right; to correct; to restore and maintain good relationships among family and family-and-supernatural powers; the specific family conference in which relationships were "set right" through "pule", discussion, confession, repentance, and mutual restitution and forgiveness."

SECTION 9. Section 571-1, Hawaii Revised Statutes, is amended to read as follows:

"§571-1 Construction and purpose of chapter. This chapter shall be liberally construed to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected, and secured in those rights through action by the court; that the court may formulate a plan adapted to the requirements of the child and the child's family and the necessary protection of the community, and may utilize all state and community resources [to the extent possible in its





implementation.], including, referring the case to a haku utilizing the practice of ho'oponopono.

This chapter creates within this State a system of family courts and it shall be a policy and purpose of [said] those courts to promote the reconciliation of distressed juveniles with their families, foster the rehabilitation of juveniles in difficulty, render appropriate punishment to offenders, and reduce juvenile delinquency. The court shall conduct all proceedings to the end that no adjudication by the court of the status of any child under this chapter shall be deemed a conviction; no such adjudication shall impose any civil disability ordinarily resulting from conviction; no child shall be found guilty or be deemed a criminal by reason of such adjudication; no child shall be charged with crime or be convicted in any court except as otherwise provided in this chapter; and all children found responsible for offenses shall receive dispositions that provide incentive for reform or deterrence from further misconduct, or both. The disposition made of a child or any evidence given in the court, shall not operate to disqualify the child in any civil service or military application or appointment. Any evidence given in any case under section 571-11 shall not in any civil, criminal, or other cause

in any court be lawful or proper evidence against the child for any purpose whatever except in subsequent cases involving the same child under section 571-11."

SECTION 10. Section 576-36, Hawaii Revised Statutes, is amended to read as follows:

"**§576-36 Additional powers of court.** In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(1) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant[.];

(2) To require the defendant to make payments at specified intervals to the clerk of the court or the obligee and to report personally to the clerk at such times as may be deemed necessary[.];

(3) To punish the defendant who violates any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding







cognizable by the court[.]; and

(4) To refer the case to a haku utilizing the practice of ho'oponopono."

SECTION 11. Section 576E-2, Hawaii Revised Statutes, is amended to read as follows:

"**§576E-2 Attorney general; powers.** Notwithstanding any other law to the contrary, the attorney general, through the child support enforcement agency, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including, but not limited to, proceedings under chapters 571, 580, 584, and 576, the Uniform Reciprocal Enforcement of Support Act. The attorney general, through the child support enforcement agency, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department's jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include, but not be limited to, the power to:





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(1) Conduct investigations into the ability of responsible parents to pay support and into nonpayment of support;

(2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;

(3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;

(4) Determine that a responsible parent has not complied with a court or administrative order and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;

(5) Establish arrearage;

(6) Establish a public assistance debt under section 346-37.1;

(7) Order and enforce assignment of future income under section 576E-16, and chapter 571;

(8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter; [and]





(9) Delegate the powers and authority described in this section to hearings officers and employees of the agency[.]; and

(10) Determine, whether the case should be referred to a haku utilizing the practice of ho'oponopono."

SECTION 11. Section 586-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) When a temporary restraining order is granted pursuant to this chapter and the respondent or person to be restrained knows of the order, violation of the restraining order is a misdemeanor. A person convicted under this section shall undergo treatment or counseling at any available domestic violence program as ordered by the court. The court shall additionally sentence a person convicted under this section as follows:

(1) For a first conviction for violation of the temporary restraining order the person shall serve a mandatory minimum jail sentence of forty-eight hours;

(2) For the second and any subsequent conviction for violation of the temporary restraining order the person shall serve a mandatory minimum jail sentence of thirty days.

The court may suspend any jail sentence, except for the

mandatory sentences under paragraphs (1) and (2), upon condition that the defendant remain alcohol and drug-free, conviction-free or complete court-ordered assessments or counseling. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor. The court may refer the case to a haku utilizing the practice of ho'oponopono."

SECTION 12. Section 587-1, Hawaii Revised Statutes, is amended to read as follows:

"§587-1 Purpose; construction. This chapter creates within the jurisdiction of the family court a child protective act in order to safeguard, treat, and provide service and permanent plans for children who have been harmed or are threatened with harm.

The legislature finds that children deserve and require competent, responsible parenting and safe, secure, loving, and nurturing homes. The legislature finds that children who have been harmed or are threatened with harm are less likely than other children to realize their full educational, vocational, and emotional potential, and become law-abiding, productive, self-sufficient citizens, and are more likely to become involved with the mental health system, the juvenile justice system, or the





criminal justice system, as well as become an economic burden on the State. The legislature finds that prompt identification, reporting, investigation, services, treatment, adjudication, and disposition of cases involving children who have been harmed or are threatened with harm are in the children's, their families', and society's best interests because the children are defenseless, exploitable, and vulnerable.

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families where practicable, and with timely and appropriate service or permanent plans so they may develop and mature into responsible, self-sufficient, law-abiding citizens. The service plan shall effectuate the child's remaining in the family home, when the family home can be immediately made safe with services, or the child's returning to a safe family home. The service plan should be carefully formulated with the family in a timely manner. Every reasonable opportunity should be provided to help the child's legal custodian to succeed in remedying the problems which put the child at substantial risk of being harmed in the family home. Each appropriate resource, public and private, family and friend, should be considered and used to maximize the

legal custodian's potential for providing a safe family home for the child. Full and careful consideration should be given to the religious, cultural, and ethnic values of the child's legal custodian when service plans are being discussed and formulated. The family court may refer the case to a haku utilizing the practice of ho'oponopono. It should be recognized at each stage of the child protective proceeding that the child will always be a natural member of the child's birth family. In making each determination, all involved should consider the fact that the child's best interests may well be forever intertwined with those of the child's birth family, even where the legal custodian is determined to be either unwilling or unable to provide the child with a safe family home. Where the court has determined, by clear and convincing evidence, that the child cannot be returned to a safe family home, the child will be permanently placed in a timely manner.

This chapter shall be liberally construed to serve the best interests of the children and the purposes set out in this chapter."

SECTION 13. Section 587-11, Hawaii Revised Statutes, is amended to read as follows:

"§587-11 Jurisdiction. Pursuant to subsection 571-11(9),





the court shall have exclusive original jurisdiction in a child protective proceeding concerning any child who was or is found within the State at the time the facts and circumstances occurred, are discovered, or are reported to the department, which facts and circumstances constitute the basis for the finding that the child is a child whose physical or psychological health or welfare is subject to imminent harm, has been harmed, or is subject to threatened harm by the acts or omissions of the child's family. The court may refer the case to a haku utilizing the practice of ho'oponopono."

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 15. This Act shall take effect upon approval.



*This resolution was introduced into the 17th Legislature, 1994 by: Eloise Y. Tungpalan, Carol Fukunaga, Lehua Fernandes Salling, Ann Kobayashi, Rosalyn Baker, Donna R. Ikeda, Malama Solomon, Rey Graulty, and Mary George.*



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# Peace and Law-Related Education Resources

## Teacher Resources

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*Peace Heroes. Dade County Student Essay Winners 1993.* (1993). Peace Education Foundation, Inc.

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- See *Peacemaking: A Course in Personal Development* for a list of books on peace for adolescents.
- See *Youth Development Project* annotated biblography for list of books related to social skills and conflict resolution.

## Local Community Resources

| Organization | Phone Numbers |
|---|---|
| Arizona Memorial | 422-2771 |
| Hawaii State Archives | 586-0318 |
| Institute for Healing of Racism | 595-3314 |
| Spark M. Matsunaga Institute for Peace | 956-7427 |
| World Council of Indigenous Peoples | 531-1182 |
| Religious Society of Friends (Quakers) | 988-2714 |
| Spiritual Assembly of the Baha'is of Honolulu and Koolaupoko | 595-3314 |

# Glossary

**Assessment**

- Assessment is the on-going collection of data that documents a person's or project's growth, development, and progress. The data is compiled and analyzed and used as an evaluation of the growth, development, progress, and worth.

**Inquiry Process**

- The process in which students are encouraged to generate their own questions and wonderings and to pursue answers and investigate topics of their own interest and imagination.

**Intentions**

- The desires, aims, hopes, purposes, significance, and/or sense of a particular learning opportunity. Intentions are less specific than objectives and they invite the teacher to design how the intentions are best met.

**Jigsaw**

- Jigsaw is a Cooperative Learning structure in which the material to be studied is divided up into small manageable portions. Each member of a home team is assigned a different section to learn and becomes "expert" in. These "experts" form a group in which all of the members are reading and learning the same article or section. They read, study, and learn it together. Each "expert" then returns to the home team and teaches his/her material to the other members of the group. The result is that each member of the home team learns all of the material while actually spending the most time on one section.

**KWL**

- A strategy which enables students to share and discuss what they already Know about a topic or what they think they Know. The W represents What they would like to know more about or what they Wonder about. The L represents what they are Learning and what they have Learned about the topic. It is a type of semantic organizer.

**Learning logs**

- Learning logs are reflections of a person's cognitive and affective journeys and experiences. They may be speculative or tentative. They are deliberate and thoughtful. They may be narratives or other genre.

**Reader Response Activities**

- These activities can range from illustrating scenes of a story to engaging in a debate of the worth of characters to

dramatization to simple discussion of the story.

**Readers Theater**

- Readers Theater is an interactive vehicle in which students take on a specific role and read the part of that character. It requires that the reader understand the problem or conflict from the perspective of that character. Readers Theater usually requires no props, costumes, special ability, or training.

**Shared Reading**

- Shared reading is reading engaged in by two or more readers simultaneously or sequentially. Shared reading can consist of one person reading, then sharing ideas about the text, and then the others reading and sharing. It can consist of oral or silent reading, but there is usually some sharing of ideas. Shared reading formats are only limited by one's imagination.

**Text Set**

- A set of materials which represents a range and variety of genre and readability levels. A text set may be organized around a topic, an author, a theme, or a variant of one theme or type. It may includes fiction, non-fiction, audio and video formats, and other tools of the researcher, such as maps, graphs, charts, pictures, primary documents, etc.

**Writing Process**

- The writing process is a circular, recursive process with no definitive beginning or ending. The writer may begin with a germ of an idea, think about it, talk about it and make some tentative notes. Writers then begin to formulate a first draft of rough thoughts and ideas. As the writer progresses, the work itself evolves either with deliberate attempts to convey some meaning or the meaning evolves as the words form in the writers mind. Often the piece grows and develops over time and with many revisions. If the writer chooses to publish, he/she then goes through the editing process which is the final step in the actual writing. Students have the choice then of creating the illustrations and the physical book itself. It is then shared publicly if desired by the author.